

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

3 UNITED STATES OF AMERICA) CAUSE NO. 3:04-CR-240-P
4 vs.)
5) (NOVEMBER 3, 2008
) DALLAS, TEXAS
 HOLY LAND FOUNDATION, ET AL (9:00 A.M.

VOLUME 30 OF 37

STATEMENT OF FACTS

BEFORE THE HONORABLE JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE
and a jury

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1 THE COURT: Good morning.

2 Mr. Jacks, with respect to Doctor Esposito, I didn't get
3 any filings from you.

4 MR. JACKS: No, Your Honor. It will be on a
5 question by question basis in terms of relevancy.

6 THE COURT: And he is your first witness up.
7 Correct? So who is putting him on?

8 MS. HOLLANDER: Yes. And he is here. I am sorry,
9 yes, I am, and he is here.

10 THE COURT: And all the jury is not here yet.

11 MS. HOLLANDER: My client is not here yet.

12 THE COURT: It is not quite 9:00. I assume we
13 didn't have any objections since we didn't get any filings.

14 Any other issues?

15 MR. JACKS: Your Honor, it is my understanding that
16 Doctor McDonald will be the next witness after Doctor Esposito

17 MS. CADEDDU: That is correct

18 THE COURT: And we renew our objection to his
19 testimony, and we do request a *Daubert* hearing with regard to
20 him. We still submit his testimony is irrelevant and it is
21 also, we would submit, if you read the notice, it is
22 confusing. It would certainly be confusing to the jury, and
23 we submit that it should be excluded on those grounds, Your
24 Honor.

25 THE COURT: Ms. Cadeddu, do you want to address

1 that?

2 MS. CADEDDU: Well, I mean, I provided the Court and
3 the Government with the notice that is rather detailed about
4 the purpose of his testimony. His testimony is going to be
5 tied directly to the videos that the Government has put in in
6 this case. He is going to opine about those and the meaning
7 of those. I think it is proper for him to discuss the meaning
8 of the Government's own exhibits and the history of the
9 development of the music. That is something that is very
10 relevant to my client's case, and I mean, as far as I think
11 that addresses the Government's relevance objections, Your
12 Honor.

13 THE COURT: Let me take a look at. That he will be
14 right after Doctor Esposito?

15 MS. CADEDDU: Yes, Your Honor.

16 THE COURT: Is he here?

17 MS. CADEDDU: Yes, Your Honor, he is here.

18 THE COURT: Let me take a look at that. I have
19 reviewed what you filed last week, Ms. Cadeddu. I think at
20 least some of that is relevant. I think his credentials are
21 okay. I think it may come down, Mr. Jacks, to where if there
22 is a particular area of questioning that you think is
23 irrelevant then you just need to object at that time.

24 I think generally his credentials are okay and I think
25 they are entitled to put him on as to some of these issues

1 identified. And Ms. Cadeddu's filing of October 29th, I will
2 take a look at it again.

3 MR. JACKS: And Your Honor, it is not necessarily
4 his credentials as so far as his methodology to determine what
5 he is opining about. No question that he has got a degree in
6 this field. But it is just not really clear how he -- what
7 methodology applies, what studies he has done.

8 THE COURT: And I think that may still just come
9 down to a question by question basis. Some of what she is
10 explaining -- Like I said, I haven't read this latest filing
11 since last week. I will take a look at it again a little
12 closer, but my impression at the time was that she would be
13 entitled to put on at least some of this. I will go back and
14 take a look at it.

15 All the jurors aren't here yet.

16 Yes, sir?

17 MR. JONAS: Your Honor, we received notice late
18 yesterday afternoon, early evening, regarding the exhibits to
19 be shown and admitted through Mr. Yaish I understand he is
20 going third after Doctor McDonald We will be probably filing
21 objections as soon as we can sometime today.

22 THE COURT: Ms. Cadeddu, how long do you expect your
23 direct?

24 MS. CADEDDU: Your Honor, it is very hard for me to
25 estimate because we are going to be going through the videos

1 and Doctor McDonald will be analyzing the videos. I will say
2 several hours, two to three perhaps.

3 THE COURT: Okay.

4 MS. CADEDDU: It is just hard for me to say, because
5 I don't know how long it will take to play the video and stop
6 and talk about it and play the video and stop and talk about
7 it.

8 THE COURT: Okay. I will get back with you on that.
9 I just want to get some idea on the scheduling. And then Mr.
10 Yaish will be the third witness, so it looks like sometime
11 tomorrow.

12 Sometime later today you will be filing objections, then?

13 MR. JONAS: Yes, sir. It may not be until after
14 court because we are here.

15 MS. HOLLANDER: Your Honor, I am sure we are not
16 going to get to Mr. Yaish today.

17 THE COURT: Okay. A juror called in 15 minutes ago.
18 She is on 75, and is probably in traffic. It looks like we
19 will be a little while before our jury is here, so we will be
20 in recess.

21 (Brief Recess.)

22 THE COURT: Ladies and gentlemen of the jury, good
23 morning. And we are ready to proceed.

24 Ms. Hollander, you are up?

25 MS. HOLLANDER: Yes, Your Honor.

1 The Defense calls Dr. John Esposito.

(Whereupon, the oath was administered by the Clerk.)

JOHN ESPOSITO,

4 Testified on direct examination by Ms. Hollander as follows:

5 Q. Good morning.

6 A. Good morning.

7 Q. Would you state your name and spell it for the court
8 reporter, please?

9 A. John Esposito, E-S-P-O-S-I-T-O.

10 Q. And Doctor Esposito, where do you live?

11 A. In Washington, D.C.

12 Q. Okay. And what do you do for a living?

13 A. I am a professor at Georgetown University.

14 Q. And what do you teach there?

15 A. I teach courses on Islam, the Muslim world, global
16 terrorism.

17 Q. Can you tell us a little about your educational
18 background starting with college? Where did you get your
19 first degree?

20 A. I was in a Catholic monetary, and so my first degree was
21 at St. Anthony's College, and I earned a Bachelor's Degree in
22 philosophy.

23 O And where is St. Anthony's?

24 A It was in New Hampshire although it no longer exists

25 Q. And did you get another degree after that?

1 A. I earned a Master's Degree in theology at St. John's
2 University in Jamaica, New York.

3 Q. Was that in any particular kind of theology?

4 A. It was Catholic theology, scripture; catholicism
5 basically.

6 Q. And I take it you also have a doctorate degree, a Ph.D.

7 A. Yeah. I have a Ph.D. from Temple University in religion.
8 My major was Islamic studies and my minor Hinduism and
9 Buddhism.

10 Q. And do you have any post doctorate work that you did?

11 A. I did post doctorate years at Harvard University and at
12 Oxford University.

13 Q. And Oxford is where?

14 A. Sorry. In the U.K., in the United Kingdom.

15 Q. And Harvard is in Boston?

16 A. Yes.

17 Q. Cambridge.

18 What teaching positions have you held before your current
19 position?

20 A. My first position was as a professor of theology at
21 Rosemont College, and then I went to the College of Holy Cross
22 where I was the chairman of the Religious Studies Department
23 for nine years, and the director of the Center For
24 International Studies for I forget now, three to five years.
25 And then I moved after about 20, 22 years to Georgetown

1 University in 1993.

2 Q. Is Holy Cross a religious organization?

3 A. It is a Catholic college run by the Jesuits.

4 Q. And is it in the United States?

5 A. It is in Worcester, Massachusetts.

6 Q. Now, maybe you just said this. Were you the director of
7 the college of International Studies --

8 A. I directed the Center for International Studies for quite
9 a few years.

10 Q. And at Georgetown what is your official position there?

11 A. I am a university professor, professor of religion and
12 international affairs, and professor of Islamic studies, and
13 director of the Prince Alwaleed bin Talal Center for
14 Muslim-Christian understanding.

15 Q. And I am going to ask you about each of those, but let me
16 start with did you -- Do you have any religious study other
17 than at the university, before you went to the University?

18 A. I was in a religious order for ten years, and so, yeah.
19 It was pretty intensive study of religion and practice of
20 religion.

21 Q. So at what age did you join this order?

22 A. I went in at 14 and left when I was 24 years old.

23 Q. And what was the religious order?

24 A. Capuchin Franciscan Fathers in New York and in
25 Massachusetts and New Hampshire.

1 Q. Is that a Roman Catholic order?

2 A. Yes, Roman Catholic.

3 Q. And were you studying to become a Catholic priest?

4 A. Yes, I was; yeah.

5 Q. Did you ever become a priest?

6 A. No.

7 Q. Why not?

8 A. That is an existential question. I liked what I was
9 doing, but I couldn't see myself doing it the rest of my life,
10 and I probably also wanted to get married. And since I had
11 been married for 43 years, I think it is a fairly good bet
12 that I wanted to be married.

13 Q. Just to be clear, did you convert to any other religion?

14 A. No.

15 Q. So --

16 A. I am a Roman Catholic.

17 Q. Have you ever studied anything about the Jewish faith,
18 Judaism?

19 A. Yeah. I have -- in studying Old Testament and studying
20 the development of Christianity, and also I have taught
21 courses that dealt with Judaism, and I have co-authored three
22 or four books on world religions that deal with all five of
23 the major world religions--Judaism, Christianity, Islam,
24 Buddhism, and Hinduism.

25 Q. And what were the names of those books?

1 A. World Religions Today, Religion and Globalization,
2 roughly, because two of them just came out this month,
3 Religions of the East, and Religions of the West.

4 Q. Okay. As someone with your background and your history
5 of Catholicism, how did you decide to specialize in Islam?

6 A. Actually I was finishing a Ph.D., and I thought I would
7 be finishing it up in Hinduism. When I went to Temple
8 University, I went there because it was a secular university
9 and I wanted to continue not to be in a
10 religious-church-related university. I wanted the experience
11 of being in a secular university. But the requirement was for
12 everyone, no matter what you were going to do, that you take a
13 course in world religion. So I had intended to major in
14 Catholic studies, which you could do in this secular
15 university. And as a result, I became interested in Hinduism
16 and Buddhism --

17 THE COURT REPORTER: If you could slow down a
18 little, please.

19 THE WITNESS: I am known for speaking fast. I
20 apologize.

21 I was ready to finish my degree, and the chairman of the
22 department suggested that I study Islam. And I kind of fought
23 him tooth and nail not to, because I didn't know very much
24 about Arabs and Muslims, and I wondered why. And I had a lot
25 of stereotypes, and it made it even less appealing. Then

1 eventually I agreed to take a course and decided to major in
2 it.

3 Q. (BY MS. HOLLANDER) You have mentioned that you authored
4 four books on world religions. Have you authored more books
5 than that?

6 A. I have; about 35 to 38 books, and also I have been the
7 editor in chief of all of Oxford University Press' major
8 reference works on Islam in the Muslim world, and have a
9 six-volume encyclopedia that is coming out in two months,
10 another one.

11 Q. An encyclopedia on?

12 A. On the Islamic world.

13 Q. Have any of your books been translated into other
14 languages?

15 A. My books have been translated into 28
16 languages--European, Asian, Middle Eastern, pretty global;
17 Chinese, Japanese.

18 Q. Do you work in all those languages?

19 A. Would that I did. No, I don't, no.

20 Q. What languages do you work in?

21 A. Arabic.

22 Q. And do you also work with any polling organizations?

23 A. I am associated with the Gallup organization, which is a
24 polling organization. I am what they call a senior scientist.
25 Gallup has a group of experts, for example, a Nobel prize

1 winner in economics, and others, that advise them on projects.

2 Q. So we are clear, what is Gallup polls? What does that
3 mean?

4 A. The Gallup I am associated with is the Gallup World Poll,
5 which is a poll of 90 percent of the world's countries. And
6 within in that it includes a poll of some 35 Muslim countries
7 from north Africa to southeast Asia.

8 Q. What does that mean, to poll?

9 A. What they do -- It is the most comprehensive and
10 systematic poll. What happens in the poll is that they go
11 into countries and they grid them, and so then you send people
12 not into only cities but villages and rural areas, and
13 one-on-one interviews in local languages where you ask people,
14 "How do you feel about your life, your political system, your
15 economic system? Is religion important to it? How do you
16 feel about the West." In Muslim countries for example, "What
17 is your attitude towards violence? What is your attitude
18 toward terrorism? What is your attitude with regard to 9/11?"

19 And then that data is gathered--it is more than some
20 50,000 one-on-one interviews--and then analyzed. And out of
21 that I co-authored a book called Who Speaks for Islam? What a
22 Billion Muslims Really Think.

23 Q. And the book was co-authored with?

24 A. Dalia Mogahed, who runs Gallup's Islamic Studies Program.

25 Q. So am I correct that what you did as a senior scientist

1 is you were one of the people with Dalia who analyzed this
2 information that the interviewers got. Is that correct?

3 A. Yeah. You look at the data and then you write up the
4 data and talk about its implications--what does that have to
5 say --

6 Q. Speak slowly.

7 A. How do we understand these people, and what they believe,
8 and what are the implications.

9 Q. And you said that you work in Arabic. Where did you
10 study Arabic?

11 A. At the University of Pennsylvania. And then I was given
12 a scholarship to study at the Middle East Center for Arab
13 Studies in Shemlan, Lebanon.

14 Q. Can you say the name of the city?

15 A. Shemlan, S-H-E-M-L-A-N, Lebanon, in the Middle East.

16 Q. And try to keep a little slower, especially when we have
17 these unusual names.

18 You I believe -- you have a Center for Christian-Muslim
19 Understanding. Is that correct.

20 A. Yeah, it is a Center for Muslim-Christian Understanding,
21 yeah.

22 Q. And what is that center?

23 A. It was created in 1993 at Georgetown, a group of
24 Christian and Muslim businessmen who were concerned about the
25 relationship between Islam and Christianity and between the

1 Muslim world and the West. And it is to address that
2 relationship through conferences and programs, both in the
3 United States and overseas. And we also brief government
4 officials, et cetera.

5 Q. Is this part of Georgetown University?

6 A. Yes, it is part of Georgetown University. It is located
7 in the Walsh School of Foreign Service, which is the School of
8 International Affairs.

9 Q. What is the name of this center?

10 A. Prince Alwaleed bin Talal Center for Muslim-Christian
11 Understanding. That name, by the way, only came into play
12 three years ago when the Center received a substantial
13 endowment. Prior to that it was simply called the Center for
14 Muslim-Christian Understanding.

15 Q. So who did it receive an endowment from?

16 A. From Prince Alwaleed bin Talal, who I believe is the
17 wealthiest businessman in the Arab world.

18 Q. And are there other centers that this prince has also
19 started?

20 A. Yes. The Prince created two centers after 9/11 in the
21 Arab world at the American University of Beirut and the
22 American University of Cairo, because he was concerned that
23 Arabs should know more about Americans. So he funded two
24 centers in American studies.

25 And then he three years ago gave funding to Georgetown

1 and to Harvard, and most recently in the U.K. to Cambridge
2 University in England and Edinburgh University in Scotland.

3 Q. So he funded a center that was already in existence in
4 Georgetown. Is that correct?

5 A. Yes.

6 Q. Okay. Do you know if Prince Alwaleed is a practicing
7 Muslim?

8 A. Yes.

9 Q. Now, have you -- Do you do any consulting work?

10 A. Yes. I have -- In my career and to today I consult with
11 both U.S. government agencies as well as governments in Europe
12 and Asia.

13 Q. And I am going to ask you a little more specific, but can
14 you just list some of the U.S. government agencies that you
15 have consulted with?

16 A. State Department, Central Intelligence Agency, Homeland
17 Security, FBI, Pentagon; and then also with separate military
18 organizations; for example, the Marines. I briefed everybody
19 from General Schwarzkopf to more recently General Shinseki,
20 who was in charge of the American battle in Afghanistan after
21 9/11.

22 Q. And what do you brief these people about?

23 A. Basically a wide range of things, but clearly on Islam,
24 on the Muslim world, on specific countries, but very much
25 focused often on the issue of terrorism, global terrorism.

1 Many of the units -- For example, the units at the Pentagon in
2 recent days that I have done consulting with tend to be units
3 that deal with counterterrorism. The same thing is true in
4 some of my briefings with let's say the FBI. It will often be
5 with their terrorism or counterterrorism units.

6 Q. Have you ever done any briefing with the United States
7 Army War College?

8 A. Yes. I have spoken there to senior officials.

9 Q. And have you done any consulting with the Joint Chiefs of
10 Staff?

11 A. I recently finished a piece that is -- was commissioned
12 by the head of the Joint Chiefs of Staff to produce a little
13 book that will be given to the next president, and I worked
14 with several others on the chapter that dealt with the whole
15 question of terrorism and the causes of terrorism.

16 Q. Have you ever consulted for the State Department or any
17 of our foreign embassies?

18 A. Yes. I have consulted with State throughout the years,
19 both at mid level, at the intelligence level, at the level of
20 the Assistant Secretary and the Secretary of State.

21 Q. Does this consulting continue up to the present day?

22 A. Yes.

23 Q. Do you know if any of your books are used by the United
24 States Military?

25 A. Yes. My books -- For example, several years ago -- In

1 fact, in the New York Times it was a Sunday sort of story
2 about the general who was put in charge of Iraq had all of the
3 senior officers read six books, and two out of the six were my
4 books.

5 Q. Have you ever lectured in other countries?

6 A. Yeah, I speak all over the world--Europe, Middle East,
7 south Asia, southeast Asia, China, Japan.

8 Q. Have you ever been to the West Bank?

9 A. Yes, multiple times.

10 Q. Have you been to Gaza?

11 A. Once, yes.

12 Q. And are you able to read the Quran in Arabic?

13 A. Yes. In order to do my work, I have to be able to do
14 that, yeah.

15 Q. Are there any associations that you are a member of or an
16 officer of?

17 A. I have been -- I am in many associations, but I have been
18 president of the Middle East Studies Association, which is the
19 largest Middle East organization in the world of experts. The
20 American Council for the Study of Islamic Societies, the
21 United Nations Alliance of Civilizations, I was a member of
22 the high level group which included people like ArchBishop
23 Tutu, former heads of government. I was just named last week
24 by the U.N. General Secretary as an ambassador for the
25 Alliance.

1 Q. What is the Alliance of Civilizations?

2 A. The Alliance of Civilizations was an international group
3 put together really after 9/11, and it brought together
4 experts or prominent people from around the world. Some of
5 them weren't specific experts in the area. And it looked at
6 relations between the Islamic world and the West, and wound up
7 a bit of a kind of fact-finding. Then we developed a report.
8 But also in light of that report we also developed a set of
9 recommendations on major projects that would improve
10 relations, and we are now involved in operationalizing those
11 projects around the world.

12 Q. And have you received any awards for your work?

13 A. Yeah. I am fortunate enough to have gotten quite a few,
14 but two would be the American Academy of Religions, the Martin
15 E. Marty award for religion and the public understanding of
16 religion, and Pakistan's highest civilian award for my
17 contributions to the study of Islam and the Islamic world,
18 among others.

19 Q. Do you ever speak to organizations or religious groups?

20 A. Yeah, throughout my career, but certainly in the last 10
21 or 20 years I speak to various Christian groups, both at
22 national conventions and often in churches, in Protestant
23 churches, in churches. If it is a Catholic church, it is
24 usually in the basement, but -- I am sorry. I shouldn't have
25 gotten into that, but as a Catholic I had to. I have spoken

1 to major Jewish organizations, to certainly major Muslim
2 organizations.

3 Q. One of the organizations we have heard about in this case
4 is an organization called CAIR, the Council on
5 American-Islamic Relations. Have you spoken at any of their
6 events?

7 A. Yes. I have spoken at a number of their events in
8 different parts of the country.

9 Q. And why do you -- have you agreed to speak for CAIR?

10 A. CAIR is a religiously-oriented group. You can tell from
11 its title. It has the word Islamic in there. And it is
12 concerned with issues of discrimination with regard to Muslims
13 in the workplace and in society. And I believe and am
14 concerned about issues of ethnic discrimination across the
15 board. So if an organization is engaged in that work and if I
16 can if they invite me to speak, and that somehow is, you know,
17 is a positive for them in terms of pulling in an audience, I
18 am happy to do that.

19 Q. Do you consider CAIR a mainstream organization?

20 A. Yes. I do this, I should mention, for a number of
21 groups. I have done it for major Jewish organizations, too.

22 Q. And by the way, are you being paid for your time for the
23 work you do on this case?

24 A. Yes, I am.

25 Q. Now, one last area to cover before we get into the

1 details. Have you ever studied the Muslim Brotherhood?

2 A. Yes, I have; for many years.

3 Q. And we are going to get into more detail later, but can
4 you generally tell us what the Muslim Brotherhood is?

5 A. The Muslim Brotherhood is a religiously-oriented
6 organization. It began as a social movement, but it has also
7 been involved in politics. And it was established in the late
8 '20s and into the '30s as both a way -- a movement that was to
9 revitalize the society religiously as well as in opposition to
10 a British colonial influence and domination. So it had that
11 kind of political slash -- you know, political resistance
12 movement; but primarily established as a social movement.

13 Q. And we will talk about it more later, but have you taught
14 any courses about the Muslim Brotherhood?

15 A. Yes, very often. The Muslim Brotherhood is very much a
16 part of both my -- many of the courses I teach, such as the
17 one I am teaching now on Islam and global terrorism, as well
18 as courses that I teach on mainstream Islamic Movements and
19 Islam in general.

20 Q. And have you written about the Muslim Brotherhood?

21 A. Yes, quite extensively.

22 Q. And we will get into this later, but have you actually
23 met members of the Muslim Brotherhood?

24 A. In order to -- In general to be an expert on a group, you
25 need to, and I have met and known leaders of the Muslim

1 Brotherhood in Egypt, in Sudan, in Jordan, and other places
2 over the years and interviewed them.

3 MS. HOLLANDER: Your Honor, at this time I move
4 Doctor Esposito as an expert in Islam and the Muslim
5 Brotherhood.

6 THE COURT: Mr. Jacks, any objection?

7 MR. JACKS: No, Your Honor.

8 THE COURT: And he is accepted as an expert in those
9 areas.

10 MS. HOLLANDER: Thank you, Your Honor.

11 Q. (BY MS. HOLLANDER) Now, Doctor Esposito, remember to try
12 to speak a little more slowly. You are kind of a fast
13 speaker.

14 Let me start by asking you to tell us and tell the jury,
15 what does -- This is kind of a two-part question, but I think
16 it goes together. Can you tell us what the word Islam means,
17 and can you briefly describe the basic tenants of the
18 religion?

19 A. Islam, the word Islam in its root means two things: One,
20 submission, submission to God, to follow God, to follow God's
21 will; and two, peace. If you look at the word I-S-L-A-M, the
22 route is S-L-M. From that comes salam, peace, as also in
23 Hebrew you have shalom. So it is the notion that if you
24 follow God that will also bring peace to yourself.

25 All Muslims, however different they are, and Muslims are

1 very -- can be sort of very diverse in terms of groups and
2 orientation, but all share in common five basic beliefs or
3 practices. The first is, if you will, the creed; the
4 confession of faith--there is no God but the God, the one true
5 God. And Muhammad is the messenger or prophet of God.

6 Q. Is that called the Shahada?

7 A. That is the Shahada. To bear witness, that is what the
8 word means--Shahada; to witness that there is only one true
9 God.

10 The second is prayer five times a day, from early morning
11 through nighttime.

12 Q. Now, are those prayers at specific times, or are
13 there prayers --

14 A. They are specific times. And to the extent that a Muslim
15 can, they will pray at exactly that period of time. That is
16 why it is not uncommon for Muslims, if they can, to in a
17 workplace to look for a place to go and pray, or if you are
18 overseas in the Muslim world, people will stop their work and
19 pray where they are or go to a mosque. So it is five times a
20 day.

21 And then another pillar would be the fast of Ramadan,
22 which is for one month every year. From sunrise to sunset, no
23 food, no drink, no sex, no smoking.

24 Q. What is the purpose of that?

25 A. It is two-fold. One is a kind of discipline. It is like

1 fasting in many religious traditions, a form of asceticism.
2 But also, as in fasting in religious traditions, it is a
3 period of time for one to spend more reflectively. And so the
4 month of Ramadan is, for example, a time when families often
5 come together. And it is a time to reflect on your religion,
6 your life.

7 It is also a time when Muslims in general -- It is
8 probably the most common time when Muslims fulfill another of
9 the obligations, which is alms giving or zakat.

10 Q. Alms?

11 A. Alms giving, A-L-M-S. My Brooklyn accent, yeah.

12 Q. We lost the L.

13 A. Yeah, I know. Alms. It is akin to tithing. It is a 2.5
14 percent wealth tax. So it is not just an income tax. A
15 Muslim is expected to give 2.5 percent of their wealth every
16 year to the less fortunate members of their community. So
17 that is the fourth pillar. While that can be done at almost
18 any time in the year, in general Ramadan is a time to do this.

19 And then the final pillar, which is the pilgrimage to
20 Mecca, the Hajj, and that is an obligation on all Muslims who
21 have the health and money to go at least once in their
22 lifetime. Some go very often if they can do it. So there are
23 five basic, if you will, practices.

24 Q. And we have seen some people who have the name Hajj. Is
25 that a name or is it an honor?

1 A. It is an honorific term often. Someone who goes on the
2 Hajj will often put the term Hajji in front of their name.
3 But also, as you can imagine, because Hajj is such an
4 important thing, some people simply are given the name Hajj by
5 their parents.

6 Q. Now, does Islam have any relation or relationship to
7 Christianity or Judaism?

8 A. It does. And that was probably the reason why I
9 determined ultimately to study Islam. I was raised to think
10 of a Judeo-Christian tradition, and that groups like Islam
11 were with Hindus and Buddhists.

12 And I discovered in my studies that in fact there is a
13 Judeo-Christian Islamic tradition--that is, that Muslims
14 believe that they worship the God of Abraham, Moses, and
15 Jesus, they recognize the revelations to Moses and Jesus,
16 Moses and Jesus are -- And the great biblical prophets are
17 often Muslim names. For example I have a friend who has two
18 boys. One is named Mousa--Moses; the other Issa--Jesus. And
19 in the Quran the biblical prophets are there.

20 And one of the things I find notable as a Catholic and as
21 a Christian is the extent to the role that Jesus plays in the
22 Quran. In particular, Mary, the Virgin Mary, she appears more
23 in the Quran than she does in the New TestamentSo there is an
24 integral relationship. What they share in common is a view
25 that there is one true God, that God sends prophets and has

1 sent his revelation. That moral responsibility is important;
2 that you are morally responsible in this life, and that there
3 are consequences for your actions if you are moral or
4 immoral--if you will, heaven hell, death and judgment.

5 Q. Does the word Muslim mean anything particular? We know
6 that people who are members of this religion are called
7 Muslims. Does that word mean something --

8 A. Muslim -- Actually, again if you just break the word out,
9 S-L-M or S-L-I-M, you have M-U-S-L-I-M. Muslim is one who
10 follows Islam, one who submits. So that is what the term
11 Muslim means. Sometimes also rendered as Moslem when it is
12 transliterated.

13 Q. And we have heard the term Allah. What does that mean?

14 A. Allah is the Arabic term for God. Allah simply means
15 literally the God, and it is Arabic -- the Arabic term which
16 means that for both Muslims and for Christians Allah would be
17 -- For Arab, a Muslim and Christians, Allah would be the term
18 for God.

19 It is a little bit akin to, for example, until 20 or 30
20 years ago Roman Catholics used the Latin term Deus for God.
21 It simply was the Latin word for God. It didn't mean that
22 Deus was God's proper name. So Allah means God or the God.

23 Q. Now, sticking to terms, one of the other terms that you
24 have mentioned that we have heard a great deal of in this
25 case, and you said is one of the five pillars of Islam, is

1 zakat. And can you tell us what zakat really means? Is it
2 more than what you just said about tithing?

3 A. Zakat -- Built into zakat -- A major focus in the Quran
4 as, by the way, also exists in the old and New Testament but a
5 major focus is on the issue of social justice, and
6 particularly concerned about certain classes of people--the
7 poor, the needy, orphans, and widows in particular. And zakat
8 basically says to believers, "You are stewards in terms of
9 creation, and so what you have comes from God and you have an
10 obligation, to the extent that you can, to take care of those
11 members of your community that are poor, in need, that are
12 widows or orphans, or are students and can't afford to go to
13 university, so this is part of your obligation. You need to,
14 you should every year take that percentage of your wealth and
15 distribute that."

16 Q. Do Muslims ever give zakat to non-Muslims?

17 A. Historically the purpose of zakat, and of giving within
18 the Muslim community, as occurred historically in most
19 religious communities in terms of Jews and Catholics as well,
20 is that, you know, with tithing, is that the money was to
21 support members of your community, and that continues to be
22 the case.

23 However, in more recent times you also find, for example,
24 organizations that are funded by zakat, zakat donations
25 responding to international events. We saw this with, for

1 example, Katrina relief, and we have seen it in other
2 instances.

3 Q. Is this part of the process of acculturation?

4 A. Yes, I would say that this is true. I have -- Actually
5 we did a book looking at Judaism, Christianity, and Islam in
6 the United States, and what you see is the way in which
7 religious groups when they come tend to be very concerned
8 about obviously their community, and then that gets broadened.

9 MR. JACKS: I am going to object on grounds of
10 relevancy. I submit this is very far afield from where we
11 are.

12 THE COURT: Well, this is background information,
13 and you may spend some time on it.

14 MS. HOLLANDER: I am moving on, Your Honor, but we
15 have had -- This relates to an issue in this case, giving --

16 THE COURT: That is fine. I have said you can spend
17 some time. Go ahead.

18 MS. HOLLANDER: Thank you.

19 Q. (BY MS. HOLLANDER) I need to ask you -- You mentioned
20 orphans and widows, and let me break that down a little bit.
21 Does Islam as a religion have a definition, or are there
22 definitions of orphans that might be different than what we
23 are used to, which is a child who has lost both parents?

24 A. You have the basic definition of an orphan who has lost
25 -- a child who has lost both parents. But also if you have a

1 child who has lost a father, because this institution grows
2 out of a patriarchal society in which --

3 Q. What do you mean by a patriarchal society?

4 A. It is a male-dominated society, and, therefore, the
5 notion is that men are responsible for supporting the women
6 and children in the family. So if, for example, a father dies
7 in a car accident or is killed in a conflict, his death is
8 seen as creating a situation in which his wife obviously is a
9 widow and his children are seen as orphaned. Their economic
10 base has been taken away from them.

11 Q. Are orphans particularly important in Islam for a
12 particular religious reason?

13 A. I think they are, for two reasons. One, the Quran is so
14 concerned with orphans. And also it is important to remember
15 that the prophet Muhammad was an orphan. So part of the
16 tradition deals with, from the very earliest time, both
17 Muhammad being an orphan, Muhammad's concern about orphans,
18 and so it is very much integrated, not only in terms of
19 Muslims' sacred scripture, but also in terms of, if you will,
20 history and culture.

21 Q. And you mentioned that widows are particularly important.
22 Is there a religious reason for that?

23 A. Yeah, I think there are a couple of reasons. Again, the
24 Quran emphasizes the question of widows. This was important,
25 for example, even historically, and it is reflected in the

1 Quran in that in the early Muslim community when Muslims were
2 in contact with the Meccans, which the Meccans were the ruling
3 group in that area, and they were in conflict, and as a result
4 there was warfare, and so there were a lot of widows created.
5 So there was a concern there. And also the Prophet's first
6 wife was a widow. So both in terms of scripture and, if you
7 will, Islamic tradition, concern for widows has always been a
8 major area.

9 Q. Now, one of the other terms -- Your task here is defining
10 some terms for us. One of the other terms that we have heard
11 a great deal about is martyr. And I want you to explain to us
12 whether martyrs have any particular significance in this
13 religion.

14 A. Martyrdom is -- Yes. I mean, I would consider martyrdom
15 as playing a very important role in the history of Islam, as
16 it did in the history of Christianity.

17 A martyr is one who witnesses -- The term for martyr is
18 shahid. It comes from the same term root as the confession of
19 faith, the Shahada--there is no God but God. So a martyr is
20 one who bears witness to one's faith, and is someone who winds
21 up giving his or her life for one's faith or one's community.

22 Q. Now, in your study, do you know or do you have an opinion
23 as to what Palestinians particularly mean when they use the
24 term martyr?

25 A. The term martyr as it is used among Palestinians is

1 actually used very broadly. And this has been true for
2 Muslims in recent decades. In other words, it winds up being
3 used of anyone who struggles in a good fight and winds up
4 giving up their life. So it will be used of Palestinian
5 Muslims, as well as Palestinian Christians, that they were
6 martyrs. And it will be used by religious folk or religious
7 people who were associated with religious organizations, but
8 also by people who belong to secular organizations.

9 Q. Can it include suicide bombers?

10 A. It can.

11 Q. Or other --

12 A. It has -- Yes. There is a debate within Islam and among
13 religious scholars about that question, but certainly there
14 are some religious scholars who would include a suicide
15 bombing.

16 Q. Now, is --

17 A. Suicide bombers. Sorry.

18 Q. Or more generally, people who commit terrorist acts?

19 A. Yes.

20 Q. Is suicide permitted in the religion in Islam?

21 A. Historically in Islam, as in Christianity, suicide is
22 forbidden and it is -- It is just absolutely forbidden.

23 Q. So how do religious leaders come to the conclusion that
24 someone who commits a violent act, and let's say suicide
25 bomber, can be a martyr?

1 A. What they in effect do is redefine the meaning of the
2 term. So what they say is that this isn't suicide; that
3 suicide usually refers to somebody who has given up on life,
4 given up on God, sees life as meaningless, and so it is a kind
5 of self-destructive act. But instead, they define what these
6 people, these suicide bombers, are doing as an act of
7 self-sacrifice, and argue that these are people who are dying
8 for something--they are dying for a just cause, they are dying
9 to free their people from occupation, et cetera. And so they
10 spin it that way.

11 But again, I would underscore that you have a rigorous
12 debate and disagreement among religious scholars over this
13 notion.

14 Q. So in your research involving Muslims, have you found
15 those who are on both sides of the issue of whether one can
16 consider a suicide bomber a martyr?

17 A. You have major religious leaders, for example, in Saudi
18 Arabia saying suicide is suicide and suicide bombing is
19 suicide.

20 Q. Meaning?

21 A. It is not accepted. It says that there is no
22 justification; that suicide bombing is an act of suicide and
23 suicide is forbidden in Islam; and you have other religious
24 leaders, some in Egypt and other places, and in the U.K.

25 On the other hand, you have some religious leaders who

1 say that suicide bombing is wrong and acts of terrorism are
2 wrong, but that suicide bombing in Israel is legitimate, and
3 then they give an argument for why this exception.

4 Q. And we are going to talk about that in a few minutes.

5 Let me ask you first, though, if you can define another word
6 that we have heard a lot of in this case, and that is jihad.
7 And tell us -- Start by telling us -- I assume that is an
8 Arabic word.

9 A. Yep.

10 Q. What the definition would be.

11 A. Yeah. Jihad occurs multiple times in the Quran, and so
12 if you are looking for its sort of primary reference point, in
13 the Quran you have the phrase jihad fi sabil Allah.

14 Q. Slow down a --

15 A. Fi, F-I, sabil, S-A-B-I-L, Allah, A-L-L-A-H. So jihad fi
16 sabil Allah.

17 Q. And that means?

18 A. To struggle in the path of God. Its basic meaning is the
19 struggle that all believers have to lead a good life; that it
20 is a struggle to do good, to lead a moral life, to do what one
21 should be doing.

22 Jihad historically in Islam has had multiple meanings, so
23 it means to struggle, to lead a good life, a moral life. It
24 also can mean the struggle if one is attacked or one's
25 religion is attacked, to defend ones self-against attack; so,

1 if you will, defensive warfare, fighting in what we in Western
2 civilization call a just war.

3 But the term jihad has also been used in highjacking by
4 terrorists for offensive wars or acts of terrorism. And it
5 has also been appropriated historically by some Muslim rulers
6 to legitimate their wars of expansion. So instead of arguing
7 and saying, you know, "We are going out and I want you to
8 conquer people," they will say, "We are defending," you know,
9 "and spreading Islam," when in fact they were spreading the
10 Islamic empire, and so they would justify, if you will, wars
11 of imperialism. And, of course, you can see that right down
12 to Saddam Hussein at times.

13 Q. Now, Matthew Levitt, Doctor Levitt testified in this
14 case, and he has written a book about Hamas. And in that book
15 he on page 9 relied on you for his definition of jihad stating
16 that, and I quote, "According to John Esposito, a leading
17 scholar on Islam" -- I assume you agree with him.

18 A. In all humility, I always agree with people that say nice
19 things about me.

20 Q. He says, "According to John Esposito, a leading scholar
21 on Islam, jihad can refer to"--and this is a quote from you,
22 and I want you to confirm whether this is accurate--"fighting
23 injustice and oppression, spreading and defending Islam, and
24 creating a just society through preaching, teaching, and, if
25 necessary, armed struggle or holy war."

1 A. Exactly. I have written and said that kind of thing
2 often, and I think that is a very -- It is a comprehensive
3 definition of jihad in terms of all of the different aspects
4 that it has.

5 Q. Is jihad connected to holy war in the Quran?

6 A. No, it is not used for holy war in the Quran. It is also
7 not used -- For example, it is not used as the equivalent of
8 the word killing. The Quran has its own -- When the word
9 killing is used, it is usually a word like Qital, Q-I-T-A-L,
10 so it is not used in that sense there either.

11 The kind of -- The meaning of holy war comes after the
12 fact; you know, just as, for example, the notion of holy war
13 in Christianity, while it exists, is not to be found in the
14 New Testament.

15 Q. So is it fair to say that in order to understand what is
16 meant when someone says jihad, you have to know the context?

17 MR. JACKS: Object to the leading.

18 THE COURT: Do you want to rephrase, counsel?

19 Q. (BY MS. HOLLANDER) How can you determine whether someone
20 -- how someone is using the term jihad?

21 A. You have to know, if you will, the person and the
22 context; you know, who said it, when, where, in what context
23 to what purpose. If I can give you an example.

24 MR. JACKS: Object to non-responsive, Your Honor.

25 THE COURT: Overruled. Go ahead.

1 Q. (BY MS. HOLLANDER) Go ahead.

2 A. When I was a young professor, I had a lunch with a
3 Palestinian professor, and I talked about the fact that I was
4 being asked -- In those days it was not that common for
5 American academics to consult with the State Department or
6 government agencies. And I said I was a little bit concerned.
7 I was delighted to do it, but I was concerned that academics
8 didn't do it, and how would people see it.

9 And we were having lunch in the Faculty Club at Temple
10 University, and he said out loud, because it was just common
11 language, he said, "Well, if you really believe in this and
12 this is important to America and your country," he said, "That
13 is your jihad," meaning "That is your struggle." And so you
14 have to know the context in which he was telling me to engage
15 in jihad.

16 Q. And what about economic jihad? Is that a term that you
17 are familiar with?

18 A. In modern times in particular, any kind of struggle, for
19 example, socially or economically, will be identified. If it
20 is to improve a neighborhood, somebody will use the phrase
21 social jihad, social welfare. Economic jihad, yes; to support
22 those who are struggling in the community in a variety of
23 ways, or struggling globally.

24 Q. Could it also mean -- In other words, by struggling
25 globally, do you mean struggling --

1 A. Economic jihad --

2 Q. Let me ask you what you mean.

3 A. Economic jihad could mean give money to people who are
4 not only here, but let's say overseas, who are poor, who are
5 destitute; or give money to support a political struggle
6 overseas, you know, support the Chechnians or the Bosnians,
7 but economically, and so it can be referred to as an economic
8 jihad.

9 Q. So that, too, would it depend on the context?

10 A. Yep. Yes.

11 Q. And Mujahidin, the word that I always mispronounce that
12 you will correct me, what does that term mean?

13 A. Mujahideen again means as with Muslim, one who, the M-U.
14 So Mujahid, M-U and then J-A-H-I-D-I-N, one who struggles,
15 Mujahidin; one who struggles in the path of God.

16 In the situation of armed conflict, as the Afghan/Soviet
17 War, the Mujahidin were those who struggled against the
18 Soviets and fought against the Soviets. So again, it is a
19 generic term that can be used for freedom fighter as well as
20 used by a terrorist to refer to themselves.

21 Q. So again do you have to know the context?

22 A. Yes.

23 Q. Earlier in this trial we saw a news report --

24 MS. HOLLANDER: And it might be easiest just to
25 bring it up. It is HLF Search No. 109. And it is at page

1 140.

2 Q. (BY MS. HOLLANDER) And this will appear on your screen
3 there, and then I will ask you a question.

4 A. Yeah.

5 MS. HOLLANDER: Actually can we go back and see if
6 we can find a date?

7 THE WITNESS: Okay. I see the date, 1991.

8 Q. (BY MS. HOLLANDER) 1991. Okay. And I will ask you some
9 questions about UASR in a moment.

10 MS. HOLLANDER: But for now let's look again at
11 page 140.

12 THE WITNESS: Yeah.

13 Q. (BY MS. HOLLANDER) And this was an interview in 1991
14 with Sheikh Yassin. And you know who he is. Correct?

15 A. Yes; the founder of Hamas.

16 Q. Okay. And the part that the Government pointed out was
17 where it says -- he was asked, "What is the name of the
18 military wing?" And he was referring to Hamas. And his
19 answer was, "The Palestinian Mujahideen." Correct? Do you
20 see that?

21 A. Yes.

22 Q. Now, would that be -- The use of the term Palestinian
23 Mujahideen, would that be -- in your opinion, is the only
24 definition of that the Hamas military wing?

25 A. That would be a generic definition in the sense that you

1 would refer to, for example, the Bosnian Mujahideen, those in
2 Bosnia who were fighting. Or you could refer to the Chechnian
3 Mujahideen. So it would be referring to those who are
4 struggling -- in a struggle or a fight. It could refer to any
5 Palestinian who was engaging in that fight, whether they were
6 members of Hamas or not.

7 Q. Have you ever seen that term used by any of the other
8 political organizations, like Fatah or --

9 A. Yes. In fact, if you look in the last few years in
10 particular, the last, I don't know, seven or eight years, it
11 is kind of interesting that the Palestinian National
12 Authority, which is secular, wound up appropriating terms like
13 jihad, shahid, martyr, and Mujahideen freedom fighters for
14 themselves as well, even though they were supposedly a secular
15 group fighting for a secular cause. So it is the generic
16 sense that these people are freedom fighters or strugglers.

17 Q. When you say that they appropriated the term, do you mean
18 that they --

19 A. Use it. They often use it. Because it shows that from
20 points -- Within a religiously oriented society, if you want
21 to legitimate even more what you are doing or mobilize
22 support, even the secular forces realize that this lends more
23 weight.

24 Q. And one of the other terms that we have heard is the term
25 Islamist. Can you define what that term means?

1 A. An Islamist is one who is Islamically-oriented,
2 religiously oriented, and it usually is used for people who
3 are engaged in social movements or political movements and are
4 motivated not only by their patriotism or their nationalism,
5 but see themselves as doing it because they are religious
6 folk.

7 And you can have mainstream activists or Islamists or
8 movements. These are people who function within society, run
9 social services and a whole lot of things, you know, analogous
10 to Salvation Army, et cetera, or you can have extremists,
11 violent terrorists -- well, terrorists.

12 Q. Can you compare this to anything we know in Christianity?

13 A. Well, I think that, you know, historically, you for
14 example look at -- In America you have varieties of social
15 organizations, and you have both secular and religious, let's
16 say Christians or Jews, who will give money for building
17 schools and hospitals, et cetera.

18 But religiously-oriented people, some of them, will
19 establish organizations that are not simply secular but are --
20 have a religious name to it and religiously inspired because
21 they are religious. And so you will then have social services
22 and the hospitals they create will have a religious name to
23 it, St. Jude's, Beth Israel, or one could have Makaset if you
24 were dealing, you know, in a Muslim context. So I think that
25 that would be the equivalent.

1 And today you see it, for example, both here in the
2 United States and overseas in many place where is you have a
3 variety of both Muslim and Christian groups, evangelical
4 groups in particular, that are more and more visible in the
5 Muslim world who engage in these kinds of activities.

6 Q. Now, another word we have heard throughout this case that
7 was translated from the Arabic was the word that translated
8 into the word front. For example, we heard the Islamic Action
9 Front of Jordan. We have heard about the American Front, the
10 European and Canadian Front. Do you have any idea what this
11 word was in Arabic and what this means?

12 A. One of the terms that is used, Arabic terms, is Jabhat.
13 If you look at the Islamic Action Front of Jordan, it is the
14 political party or political wing of the Muslim Brotherhood.
15 And when you are translating a word--this is true in any
16 language--into let's say English, trying to find the precise
17 meaning is often difficult. It can have multiple meanings.
18 This particular term could be equivalent, would be
19 organization, or it could mean kind of an umbrella group or
20 coalition.

21 For example, in Algeria a major Islamic movement there
22 was the Islamic Salvation Front. Now, that sounds like one
23 group, but the term there, front, meant an umbrella group that
24 included, other Islamic groups, or even just other
25 Islamically-oriented individuals. So the term front in this

1 context simply means something like organization, association,
2 or coalition.

3 Q. And the word sheikh we have heard this term a great deal.

4 What does that mean?

5 A. Sheikh is a very generic name. It is used of religious
6 leaders; Sheikh Yassin, we have heard his name already. But
7 it also is an honorific term. So, for example in the Arab
8 world -- Let's say in the Gulf, in Saudi Arabia or one of
9 those countries, a cabinet minister might be called Sheikh.
10 It is sort of honorific. Or a student who is a Muslim student
11 might say of his teacher, whether Muslim or not, sometimes I
12 will have a student say, "You are my sheikh." So it is an
13 honorific term. "You are my" --

14 Q. Teacher?

15 A. Teacher. Or "You are somebody who I would follow."

16 Q. And is it also sometimes just part of someone's name?

17 A. Yes. You can have somebody who actually just has the
18 name like Sheikh Ali so and so, and there sheikh can be the
19 equivalent of a first name.

20 Q. And actually jihad can also be a name. Is that true?

21 A. Yes. It is -- It can be a first name or a last name.

22 Q. Now, we have seen a lot of videos where people in
23 response to fundraising, for example, will shout the word
24 takbir or shout Allah akbar. What -- Start with takbir. What
25 does that mean?

1 A. Takbir, the best way to understand the meaning of takbir
2 is -- It is like saying -- In many traditional
3 audiences -- For example, years ago in this country, when you
4 would be speaking to an Arab immigrant audience, you wouldn't
5 have applause at the end of the talk. That is a very Western
6 phenomenon. So if I were giving a talk and my wife were
7 coming to it, I would say, "Don't be nervous if you don't hear
8 any applause. It doesn't mean I am a failure." You would
9 hear dead silence. But if you did well, somebody might say
10 takbir. It is almost like saying, "That's great." And then
11 somebody would say, "Allahu akbar"--God is most great.

12 And Allahu akbar, therefore, is a term -- It is -- To say
13 "God is most great" is so generic that it means it can be used
14 in almost any context; i.e., if something good happens to you,
15 you attribute it to God. But it can also be used as a battle
16 cry, as it was by the -- Sorry. By the Afghan mujahideen
17 against the Soviet Union. It would be A battle cry as one
18 went into war--God is most great; sort of like dying for God
19 and country. It can also be used by terrorists to mobilize
20 people.

21 Q. So again --

22 A. It is an affirmation that God is the greatest thing in
23 the world, that God controls our destiny.

24 Q. So again, does one have to know the context?

25 A. You always have to know the context with any such terms.

1 It is a little bit like when the Crusades were called for and
2 the Pope said, "God wills it," you have to know the context in
3 terms of what were they going to do in terms of what God
4 willed.

5 Q. Now, we have also heard a lot of Arabic names in the
6 course of this case, and one of the things that we have
7 learned is there is something called an Abu name. And what is
8 an Abu name?

9 A. Abu means the father of so and so, of a person; you know,
10 usually of the son. And so, for example, in an Arab village
11 when I first lived in Lebanon, a man and wife, the mother
12 would be called Um -- if the son's name was Nabil, Um Nabil,
13 the mother of Nabil, and the father would be called Abu, the
14 father of, Nabil. And in the village, that would be the way
15 in which people would identify them once you had a son, rather
16 than calling you by your given sort of first name.

17 Q. Has Abu, A-B-U or A-B-O-U, we have seen it spelled both
18 ways, also become parts of last names?

19 A. Yes. As with a lot of these terms, they can then become
20 simply appropriated as part of a last name. It almost looks
21 like a hyphenated name, Abu so and so.

22 Q. And if you wanted to distinguish between whether you --
23 in English whether you were referring to someone by the kind
24 of informal father of or somebody's last name, how would you
25 do that?

1 A. If I were in court, for example, in the United States --
2 It all depends on the country. In terms of our custom, you
3 would wind up staying, you know, Mr. Abu Khalil, for example.
4 We would use the phrase mister.

5 Q. Have you ever been to a zakat committee in the West Bank?

6 A. No, not to my knowledge. What I mean by that is that I
7 have done interviews and gone to organizations, but I don't
8 remember any of them being a zakat committee.

9 Q. So you are not claiming any expertise in how the zakat
10 committees run or who controls them.

11 A. Correct. I have no firsthand experience. I have just
12 read about them.

13 Q. Now, Doctor Levitt testified in this trial about zakat
14 committees. And I take it you have read his book.

15 A. Yes, I have.

16 Q. Would you rely on what he says about zakat committees?

17 A. I think that, as with any book, there are parts of it
18 that I find acceptable and parts that I don't. But it is a
19 little bit difficult -- The book, both on my part and also
20 with some other reviewers, has come in for some criticism.
21 And part of it, from my point of view, is somebody who works
22 in certain areas as an expert, is the methodology employed.

23 Q. Well, he testified that he didn't see any reason to go to
24 a zakat committee, and that he had only interviewed two Hamas
25 prisoners. In your opinion, is that -- Someone who has never

1 been to a zakat committee, would you rely on him as an expert?

2 A. I think if you are writing about something in the past,
3 that existed in the past, let's say 100 years ago, then
4 obviously then your scholarship is you go back and you just
5 look at text of what somebody else wrote. But if you an
6 expert on a contemporary phenomenon, I think that your
7 expertise suffers enormously if you haven't had firsthand
8 experience.

9 If nothing else, the problem you have into is if you
10 don't have firsthand experience, then you are reading what
11 other people say, and if they disagree how do you make the
12 judgment that you have to make as an author or expert on who
13 is right, if you have got one person in their book saying one
14 thing, another person in the other book saying the other
15 thing? So it affects your, you know, your credibility.

16 Q. Now, Doctor Levitt has also testified and written about
17 the Muslim Brotherhood. Do you agree with what he has said
18 about the Muslim Brotherhood?

19 A. It would depend on what that was. I mean, I couldn't say
20 that I would disagree with everything that he said about the
21 Muslim Brotherhood.

22 Q. Well, let me ask you specifically. In your opinion of
23 the Muslim Brotherhood -- Now, you have mentioned earlier --
24 Let me go back a little bit. You mentioned earlier you
25 interviewed members of the Muslim Brotherhood. Can you tell

1 us who you have interviewed --

2 A. I have interviewed most -- The head of, for example, the
3 Egyptian Muslim Brotherhood would be called the guide. I have
4 interviewed the heads of the Muslim Brotherhood, some of the
5 leadership and some of the younger members of the Muslim
6 Brotherhood.

7 Q. In other countries?

8 A. In Egypt, in Jordan, in Israel, Palestine, in Sudan,
9 among other places.

10 Q. In your opinion, is there a central -- kind of a central
11 Muslim Brotherhood that has chapters in all these countries?

12 A. I think that the best way to see the Muslim Brotherhood
13 is as an organization which began in Egypt and then was spread
14 to other countries and was emulated. But these organizations
15 now in Sudan and Jordan are very much the Jordanian Muslim
16 Brotherhood, the Sudanese Muslim Brotherhood.

17 Do these people stay in contact with each other? Yes.
18 Would they, you know, meet from time to time? Yes. But it is
19 not as if there is kind of a central organization with a CEO,
20 the equivalent of a CEO, who would have the power to, for
21 example, give commands to people outside that area, you know.
22 One could give advice, but not commands.

23 So, for example, the guide of the Egyptian Muslim
24 Brotherhood, since it was, if you will, the mother ship, you
25 know, would certainly be somebody who has a voice, but the

1 Jordanian Muslim Brotherhood would not necessarily feel that
2 it had to follow.

3 And there is a historical example of this. When the
4 Muslim Brotherhood spread to the Sudan, the Sudan is right
5 next to Egypt. The Egyptian Muslim Brothers felt they would
6 be in command. And in fact the Sudanese Muslim Brotherhood
7 ultimately basically said, "We are Sudanese. We have our own
8 leadership." So in a sense, you know, "Yes, we have a certain
9 kind of brotherhood relationship, but it is our own
10 operation." I think that is the way I would put it.

11 Q. The Government introduced a document that was found at
12 Mr. Elbarasse's house that talked about the international
13 Muslim Brotherhood directing branches to form Palestine
14 committees.

15 In your opinion, could the international -- Is there an
16 international Muslim Brotherhood that could direct other
17 Muslim Brotherhoods?

18 A. I guess I have both a question and answer. The question
19 would be, you know, who said that? What is the authority of
20 that statement? But in terms of the question that you asked
21 me, I would say no. I wouldn't agree with that statement or
22 the conclusion in that statement.

23 Q. And we have also heard in this case -- There is a
24 document the Government introduced that was a document -- Let
25 me just put it up.

1 MS. HOLLANDER: It is Elbarasse No. 3, and it is
2 page -- Start with the -- Put up the first page of the Arabic
3 and then we will go from there.

4 Q. (BY MS. HOLLANDER) This has a date on it. Can you read
5 the date?

6 A. I can see it here, yeah.

7 Q. 1991?

8 A. Yes.

9 Q. Okay. And is there an author on that page? Do you see
10 an author anywhere?

11 A. It is kind of fuzzy here.

12 MS. HOLLANDER: Let's go to the first page of the
13 English, because the English is easier to see.

14 Q. (BY MS. HOLLANDER) Do you see an author anywhere? I
15 don't believe there is an author to this document.

16 A. No.

17 MS. HOLLANDER: Go to page 21, please, of the
18 document. And if you highlight No. 4, paragraph No. 4.

19 Q. (BY MS. HOLLANDER) This statement, this unauthored
20 statement from 1991, in essence says that the Muslim
21 Brotherhood wants to overthrow Western governments. You can
22 read that statement.

23 A. Yeah.

24 Q. And let me ask you a question about that. In your
25 opinion, is that a valid stance that you have ever seen the

1 Muslim Brotherhood take in any country?

2 A. No. If I read that statement I would say it was clearly
3 made by a -- If it is authentic, it would be made by a radical
4 or terrorist organization. That is not something that I would
5 associate with the Muslim Brotherhood.

6 Q. Is the Muslim Brotherhood a violent organization?

7 A. Historically -- It depends on which Muslim Brotherhood we
8 are talking about. But, for example, in Egypt in the last, I
9 don't know, 20 or 30 years, the Muslim Brotherhood has
10 functions within society socially as well as politically. It
11 has been elected to office. Despite at times strong acts of
12 repression, documented by international organizations as well
13 as our State Department, they have not responded violently.

14 In Jordan the Muslim Brotherhood has historically worked
15 within the Kingdom and with the King and participated in the
16 political system, as if you will, quote unquote, often a loyal
17 opposition. So in those countries --

18 The Sudanese Muslim Brotherhood, it is a different story.
19 It depends on what period of history; particularly in terms of
20 the Sudan in opposition both working with the government as
21 well as in opposition to the government, and at times they
22 have been involved in conflict.

23 Q. But this particular statement is not one you have ever
24 seen in relation --

25 A. No. I mean, if it is -- As I said, if it is authentic,

1 it would represent, it would seem to me, a terrorist comment,
2 an individual or a group. It wouldn't represent a Muslim
3 Brotherhood -- You wouldn't guess that it was a Muslim
4 Brotherhood statement.

5 Q. Are there --

6 A. And if you go to their website, by the way, you can
7 document that.

8 Q. And what is the Muslim Brotherhood website?

9 A. It is -- It has both an Arabic and an English website,
10 and you can go on the website and they have most of their
11 major documents. And certainly in terms of positions such as
12 this kind of position, I mean, you would see -- In other
13 words, you know, what is the agenda, what is its relationship,
14 what is its goals, you know, and you see an organization that
15 has developed over time and you have -- Many of their major
16 documents are there.

17 Q. So this could be one individual's position?

18 A. It could be one individual, or it could represent some
19 sort of radical group. But without knowing who the author is,
20 or really -- It is hard to say.

21 Q. Now, do you know whether the Muslim Brotherhood still
22 exists in the West Bank and Gaza independently from Hamas?

23 A. The Brotherhood exists, but it is much more nuanced than
24 it was--that is, much more -- It is not as clear when you
25 approach it as, let's say, it would have been years ago. That

1 is, years ago you had a Muslim Brotherhood in Palestine. Then
2 Hamas was formed as, if you will, a kind of militia. Okay?
3 And you could clearly distinguish between the two.

4 In recent years, as Hamas has become a greater presence
5 and force within Gaza, and more recently has come into itself
6 politically, that kind of distinction has become far more
7 blurred. But clearly you would still have people within the
8 West Bank and Gaza who would see themselves as Muslim Brothers
9 but not necessarily as members of Hamas. Some might vote for
10 Hamas, the way you would vote -- prefer this political leader
11 over another, but not necessarily be formal members of Hamas.
12 So I think one still has to distinguish. And there are also
13 now other Islamic groups as well.

14 Q. One of the documents that the Government showed us
15 was -- had a quote in it that said that "Given that all the
16 founders of Hamas were brethren, Hamas' structure borrowed
17 heavily from the Movement." And do you agree with that?

18 A. Yes. And that wouldn't be surprising. That would
19 be -- Yeah.

20 Q. And have you ever heard the Muslim Brotherhood referred
21 to as the Movement? As the Islamic Movement?

22 A. Yes. The phrase Islamic Movement is -- Again, if you
23 just think about the words, it is a very generic term. So,
24 for example, one can say the Islamic movement being global
25 Islam, and so the Islamic movement across the world. Or one

1 can say, if you know the context, in Egypt and somebody says
2 in a certain context the Islamic Movement, they would be
3 referring to the Muslim Brotherhood. But it would depend on
4 which movement.

5 If you are in let's say Gaza, if you say in a context --
6 You would expect in a context that is predominantly, let's
7 say, Hamas, one might say the Islamic movement and mean Hamas.
8 On the other hand, one could be referring to other Islamic
9 movements there, smaller groups. You could be referring to
10 Islamic Jihad, Palestine Islamic Jihad. And you have now what
11 are called Salafi, S-A-L-A-F-I, Jihadist Movements. So
12 depending on the context, one might be using the phrase the
13 Islamic Movement to refer to a specific movement, as opposed
14 to just this kind of generic sense of Islamic movements
15 globally.

16 Q. So again, you would have to know the context?

17 A. Yes.

18 Q. In your opinion, is there any proof that the Muslim
19 Brotherhood wants to overthrow governments or create an
20 Islamic state through violent jihad?

21 A. The proof actually runs directly against that. If you
22 look historically of the track record of the Muslim
23 Brotherhood, not only its statements but what it does, in most
24 countries, certainly in Egypt, in Jordan, it participates
25 within government and within society, usually as a major

1 social movement. And when able to function in politics, when
2 governments have opened up and allowed free and fair
3 elections, which is not all that common in the Arab world,
4 then they will participate in government.

5 Q. And somewhere in the Government's case we heard the name
6 Moustafa al-Mansour as the head of the worldwide Muslim
7 Brotherhood. Have you ever heard of this person?

8 A. Never heard of this person as the head of the worldwide
9 Muslim Brotherhood movement. There may be people who say that
10 or make that claim, but in my work I could not say, A, that
11 that kind of movement exists in the way that you are
12 describing it; and B, that this person has that authority. I
13 have never heard, for example, a major Muslim Brotherhood
14 leader referred to someone who is beyond them as the sort of
15 CEO of the Movement.

16 Q. Now, I want to ask you about another document that the
17 Government has relied on.

18 MS. HOLLANDER: If you will pull up Ashqar Search
19 No. 5.

20 Q. (BY MS. HOLLANDER) And this is a document that the jury
21 has seen a number of times that was taken from the home of --
22 Actually photographed in the home of Mr. Ashqar. And you can
23 see the date is 1993.

24 MS. HOLLANDER: And if you just go to the first page
25 of the Arabic, you can see this was originally an Arabic

1 document. And now if you go to page -- I believe it is page
2 14. This is the English, the rest of us who have to look at
3 it in English.

4 Q. (BY MS. HOLLANDER) Can you see that?

5 A. Yeah, I can see it.

6 Q. I want to ask you about this particular document. And it
7 is -- Again, we don't know too much about it except it says "A
8 suggested work paper on rearranging the frame of work on the
9 inside." And we have been told in this case that the inside
10 refers to Palestine.

11 Now, this paper, if you look at the roles assigned to
12 each party --

13 A. Yes.

14 Q. -- has a role assigned to -- Do you see the role assigned
15 to the Muslim Brotherhood?

16 A. Yes.

17 Q. And the role assigned to Hamas?

18 A. Yes.

19 Q. Looking at the role assigned to the Muslim Brotherhood,
20 education, social, and charitable work, economic work, Dawa,
21 and financial affairs, is that consistent with what you know
22 about what the Muslim Brotherhood does?

23 A. Yeah. That is -- Yes. And most experts would say -- I
24 don't know anybody who would differ on that first section.

25 Q. And what is dawa?

1 A. Dawa, it means -- It is to spread the word of Islam or to
2 -- Dawa is like propagation of the faith. It is to help
3 Muslims become better Muslims, or to spread Islam to
4 non-Muslims. It is the call, the call to people--Dawa means
5 the call--the call to people to Islam.

6 Q. Okay.

7 MS. HOLLANDER: And let me refer you to page 20.

8 Q. (BY MS. HOLLANDER) And on this page it continues to talk
9 about the social and charitable work. And it says, "This work
10 is considered the Movement's pulse among the masses and its
11 banner in solving their problems and alleviating their
12 worries, as the enemy does not provide even the least minimum
13 of services, and many of the families live in abject poverty
14 due to the absence of a dependable provider."

15 Is that the kind of work you would see the Muslim
16 Brotherhood doing?

17 A. Yeah.

18 Q. Is that a statement that would be consistent with
19 something you have seen in Muslim Brotherhood literature?

20 A. Yes.

21 Q. Now, you said that as a researcher you have met with
22 members of the Muslim Brotherhood. And although I am not
23 asking you to testify about Hamas, have you met with leaders
24 of Hamas also?

25 A. Yes.

1 Q. Is that something --

2 A. Not lots of leaders, because -- But I met with certainly,
3 for example, leaders of Hamas in Jordan quite a few years ago.
4 And I have run across leaders of Hamas in national -- one or
5 two international conferences, but not -- I have never met
6 with leaders of Hamas, for example, within Gaza.

7 Q. Would you be willing to write about Hamas in Gaza, having
8 never met with the leaders in Gaza?

9 A. Not -- I would write about it in -- if I were writing,
10 you know, a general book, but not -- If I were writing a
11 monograph as sort of an expert on Hamas, no.

12 Q. Just because you have met with these people, does that
13 mean anything about whether you support them or not?

14 A. No. When you do research -- You know, for example if you
15 are doing research on -- I know researchers who worked, let's
16 say, on the Vietnam war. And they might go and interview
17 generals and political leaders who they agreed with or not
18 agreed with. You go and interview the players to have
19 credibility.

20 You don't have much credibility in general if you -- For
21 example, when I speak to the military about Islamic Movements,
22 if somebody in the audience at the end of my going on in this
23 sort of definitive way said, "Have you ever met a member of an
24 Islamic Movement," and I say, "No," I know for a lot of them
25 they would be thinking, "Well, that is nice, but then, you

1 know, how do you know really what you are talking about? You
2 are just saying what they say when you read something that
3 they have said, or you are saying what other people say they
4 say but they don't mean."

5 So when you do research, if you have got live people that
6 you are researching, or a movement, it is expected that you
7 will interview.

8 Q. Now, you have also -- We have heard a great deal in this
9 case about a man named Qaradawi, Sheikh Qaradawi. And he
10 spoke at a fundraiser for HLF at one point. And I am going to
11 ask you some specific questions about him because he has come
12 up. But first, who is he? Do you know who he is?

13 A. Yeah. Yousef al-Qaradawi is a very, very prominent
14 Islamic scholar, leader, mufti, expert, who gives opinions
15 that people around the world would follow. Not only are they
16 in books, but, for example, you can go on his website or other
17 websites and see his opinions or Fatwas, or you can ask him a
18 question.

19 So he is very well-known throughout the Arab world,
20 throughout the Muslim world, and in Muslim communities in
21 Europe and America. Not all Muslims would agree with him or
22 follow him, but he is a very prominent religious leader.

23 Q. We have heard some evidence in this case that he spoke in
24 favor of suicide bombers and the destruction of Israel. Have
25 you actually met with Qaradawi?

1 A. Yes, I have met Qaradawi.

2 Q. Is this correct, what we have heard?

3 A. Yes. I would qualify it a little from the way you just
4 phrased it. Qaradawi is somebody who would on the one hand
5 denounce acts of terrorism, and so, for example, he denounced
6 the 9/11 attacks, and I believe in fact his first statement
7 was on 9/12, the day after the attacks. In general he would
8 denounce suicide bombing.

9 But when it comes to suicide bombing in Palestine, he
10 has, since probably the mid 1990s, been supportive of those
11 actions, and taken issue with Muslim religious leaders who
12 were not.

13 Q. So has he issued Fatwas that oppose suicide bombing in
14 other contexts?

15 A. Yes. He has issued Fatwas that opposed suicide bombing
16 in other contexts, and in fact issued a very prominent Fatwa,
17 along with American religious leaders and others, that
18 basically said to American Muslims in the military that they
19 could participate in the invasion of Iraq and in killing of
20 Muslims. So he has -- You have to look at, again, what he
21 said and what context he is talking about. There are
22 different positions out there.

23 Q. Well, what is the justification, from your study of him,
24 for suicide bombers or terrorism in Israel?

25 A. He has justified -- His argument runs something like

1 this: That the situation in Palestine, that Palestine is a
2 war zone, and that Palestinians are people under occupation.
3 So he sees this as a war zone, people under occupation. And
4 he sees, therefore, in that context that all Israelis are part
5 of the system. In fact, he would say that not only -- and do
6 Israelis serve in the military, but most Israelis are in the
7 reserve, et cetera. And, therefore, he sees this as a war
8 zone in which fighting and killing is legitimate.

9 He also sees suicide bombers as people who are
10 sacrificing themselves against a superior military power;
11 people who don't have the military wherewithal, equipment, et
12 cetera, and, therefore, are using their bodies as a weapon
13 against military might. And, therefore, for him, the way he
14 would legitimate it is it is a sacrifice for a noble and just
15 cause. That is the way he argues it.

16 Q. Now, part of -- One of his statements that we have heard,
17 and I believe it is also somewhere in the Hamas charter, is a
18 statement about Jews -- hiding behind trees and killing Jews.
19 Are you familiar with this?

20 A. Yes.

21 Q. With what I am talking about?

22 A. Yeah.

23 Q. First of all, where does that come from historically?

24 A. The statement comes -- The context for the statement
25 would be two-fold: One, the relationship of Muslims in the

1 early period, and this is reflected also in the Quran itself,
2 to Jews. On the one hand in the Quran, the Quran says that
3 Jews and Christians are people of the Book.

4 Q. What does people of the Book --

5 A. Sorry. People that have a revelation from God. So the
6 Quran recognizes the revelation of the Torah to Moses and the
7 Gospels to Jesus. And so, therefore, the notion is Jews,
8 Christians, and Muslims, quote, we are all people of the Book.
9 So you see that in the Quran.

10 But what you also see in the Quran, and in fact -- and it
11 reflects early history that some Jewish tribes align
12 themselves--I am giving you the Quranic narrative--align
13 themselves with the opposition; those who are oppressing the
14 Palestinians, the Meccans. Okay. So they were seen as the
15 enemy. And, therefore, those Jews were seen as enemy who were
16 to be fought, killed to the extent that they were threatening
17 the security, and -- well, fought and killed.

18 You then have reflected in a tradition that has come
19 down, a tradition that is -- of the Prophet, that is
20 attributed to the Prophet, you have a tradition that expresses
21 this same kind of conflictual situation, and that in this kind
22 of conflict you are to fight against your enemy.

23 And so that quote has been used and also abused by
24 religious preachers, for example, in different contexts.

25 THE COURT: Let's go ahead and take the morning

1 break. Let's take a 20-minute recess. That clock is not
2 correct. We will try to get it fixed, but let's take a
3 20-minute recess.

4 (Whereupon, the jury left the courtroom.)

5 THE COURT: We will be in recess.

6 (Brief recess.)

7 THE COURT: Counsel?

8 Q. (BY MS. HOLLANDER) We were talking about Yousef
9 Qaradawi, and I actually only had one more question about him.

10 From what we have heard of him, it certainly sounds like
11 he is very -- Since he has taken this historical reference and
12 made it --

13 MR. JACKS: Object to leading and improper question.

14 MS. HOLLANDER: I haven't finished the question.

15 MR. JACKS: She is making a comment in her question
16 and opinion, and we object to that.

17 THE COURT: Well, she hadn't finished the question.
18 Go ahead and finish and let's see what you were going to say.

19 MS. HOLLANDER: Thank you.

20 Q. (BY MS. HOLLANDER) The comment that you were responding
21 to that Qaradawi made about Jews in the historical sense -- He
22 has spoken in modern times, and so it sounds like he is very
23 anti-semitic or anti-Jewish. And my question to you is, in
24 your opinion do you believe that that is true of this
25 particular person, based on what you know about him?

1 A. If you look at Qaradawi's work--I actually just finished
2 working on him for a new book that I have--he goes out of his
3 way to say that he is not anti-Jewish, but he is anti-Israeli,
4 anti-Israel occupation of Palestine, and that that is what he
5 is talking about. So he will talk about Jews again as people
6 of the Book, et cetera, but when it comes to Palestine he
7 defines that situation politically.

8 Q. And you are just telling us what he says; not necessarily
9 agreeing with him.

10 A. Right.

11 Q. Do you know whether the United States government has had
12 any negotiations or conversations with any Muslim Brotherhood
13 organizations around the world?

14 A. Yes, it has.

15 MR. JACKS: Your Honor, I am going to object to
16 relevancy.

17 MS. HOLLANDER: That is my only question, Your
18 Honor.

19 THE COURT: Okay.

20 Q. (BY MS. HOLLANDER) Now, I want to turn to a slightly
21 different subject. The Government has introduced parts of two
22 magazines called the Middle East Affairs Journal, and one of
23 them was the Middle East Affairs Journal for summer/fall 1998.
24 And I believe that is -- I always get these backwards. I
25 think it is HLF Search No. 108.

1 MS. HOLLANDER: Is Mr. Lewis not here? I don't have
2 the whole thing in front of me, and I was kind of counting on
3 his being here.

4 Q. (BY MS. HOLLANDER) Okay. The Government introduced two
5 documents, both of them are the Middle East Affairs Journal.
6 And this one, which is HLF Search No. 108, was from 1996, and
7 the other one, HLF Search No. 106, is from 1998.

8 And let me ask you, first, are you familiar with the
9 Middle East Affairs Journal?

10 A. Yes, I am.

11 Q. And the organization that put this journal out was the
12 United Association for Studies and Research.

13 A. Yes.

14 Q. Does it have an acronym? Is it just UASR?

15 A. Yeah, UASR.

16 Q. We have heard some testimony about UASR in this trial.
17 Have you ever done any work with that organization?

18 A. Yes.

19 Q. And what did you do?

20 A. They were a think tank based in Virginia, and often some
21 of the members of that think tank would come to conferences
22 that we had, and we would meet at conferences. We did a
23 conference together. And so I had contact with that think
24 tank, along with people in a lot of other think tanks, yes.

25 Q. Did you consider UASR, when you were meeting with him, to

1 be a Hamas organization?

2 A. No. I mean, I had no way of knowing whether they were or
3 they weren't.

4 Q. And the head of that organization Ahmed Yousef, do you
5 know who he is?

6 A. Yes. I had a number of professional occasions over quite
7 a few years in Washington to see him. I probably saw him, on
8 an average, maybe two times a year, three times a year,
9 something like that.

10 Q. And during what period of time? In the '90s?

11 A. It would have been in the '90s, and perhaps into the
12 early part of this century.

13 Q. And do you know where he is now?

14 A. Yes.

15 Q. And where is that?

16 A. He is in Gaza. I had lost track of him for like three or
17 four years, and then I heard that he -- or he then surfaced.
18 He had been in Gaza; had left the United States.

19 Q. And do you know what his position is now?

20 A. Yes, as a senior political advisor to Haniya, the elected
21 leader in Gaza.

22 Q. And he is a Hamas leader. Correct?

23 A. Yes.

24 Q. Now, this journal had an advisory board in 1998, and I
25 want to put this up on this elmo and ask you if you are

1 familiar with any of the individuals who are on the advisory
2 board. I will do it in part here.

3 A. Yeah, I can see it.

4 Q. Can you see it? Okay. I will have to move it up, but
5 are you familiar with any of those individuals?

6 A. Yes. Ahmed Yousef, Anisa 'Abd al Fattah. I am familiar
7 with quite a few of them. Sana Abed-Kotob from the University
8 of Maryland, who now works for the American government.

9 Khurshid Ahmad. Charles Butterworth, who is a prominent
10 American academic. Louis Cantori, recently deceased, but a
11 prominent academic. Ibrahim Abu-Rabi, know him. John Entelis
12 at Fordham University, a North African specialist. Graham
13 Fuller, former senior CIA and Deputy Director of the National
14 Security Council. Bruce Lawrence from Duke University.
15 Sulayman Nyang of Howard University in Washington. Fathi
16 Osman from the West Coast. Louay Safi. Sayyid Mohamed Syeed.
17 And William Zartman.

18 Q. Were these people who you would consider Hamas
19 supporters?

20 A. No, none of them would be.

21 Q. And turning to the next page, the table of contents for
22 this document, this has a number of articles, including one
23 that you wrote. Correct?

24 A. Yes. It actually was a speech that I gave at CSIS, which
25 is a think tank in Washington, and then I believe Ahmed Yousef

1 asked me if he could publish that speech.

2 Q. And there is also an article by a Ronald Neumann. Do you
3 know who he is?

4 A. Yes. Ronald Neumann was, is, a distinguished diplomat
5 who served in the Clinton and then more recently the Bush
6 Administration. His last position was ambassador to
7 Afghanistan. And he had been prior to that Deputy Assistant
8 Secretary of State for the Near East.

9 Q. And one of the other people who wrote for this magazine
10 was Robert Pelletreau.

11 A. Robert Pelletreau was the ambassador to Bahrain, Egypt,
12 and Tunisia, and was responsible when he was ambassador to
13 Tunisia for--that was at a time when Yasser Arafat was living
14 in Tunisia--for U.S. relations, and then became the Assistant
15 Secretary of State for Near East during the first Clinton
16 term.

17 Q. Would you consider them Hamas supporters?

18 A. No, definitely not.

19 Q. Now, there is also an article -- On the next page there
20 is an article here by a Sheikh Jamil Hamami. And this is a
21 name we have heard in this case. And the article is entitled,
22 "Islamic-Christian Relations in Palestine in a Civil Society:
23 'An Islamic point of view.' "

24 A. Yeah.

25 Q. In preparation for your work here, did you read this

1 article?

2 A. Yes, I did.

3 Q. This article was published in 1998. And I don't know if
4 you can see that. Can you read what it says in the note about
5 Sheikh Hamami?

6 A. "One of the leaders of the Islamic Movement in the West
7 bank considered a voice of moderation within Muslim ranks. He
8 was imprisoned more than once during the Intifada, as well as
9 after the establishment of the Palestinian Authority. He is
10 also a member of the Higher Islamic Council of Palestine."

11 Q. And having read this article, is it your opinion that
12 this is a moderate article?

13 A. It is a surprisingly progressive position. The reason I
14 say surprisingly is I am -- He writes on a position that I
15 deal with, which is how to understand Muslim-Christian
16 relations --

17 MR. JACKS: I would object to him giving his opinion
18 about this article. I believe the article can speak for
19 itself and the jury can reach its own conclusion if they chose
20 to read it.

21 THE COURT: Okay. Overrule that objection. He may
22 render an opinion on it.

23 MS. HOLLANDER: Thank you.

24 THE WITNESS: It is -- I am sorry. I lost my train
25 of --

1 Q. (BY MS. HOLLANDER) I was asking whether you agree with
2 the statement that this is a moderate opinion?

3 A. The way I would describe it without -- would be simply to
4 say that it is -- would be regarded as a very progressive
5 position, vis-a-vis, let's say, traditional positions--that
6 is, that he strikes into new territory in talking about
7 redefining or reinterpreting the notion of the relationship
8 between Muslims and non-Muslims in a state, and talks very
9 clearly about equality of citizenship, et cetera, which is a
10 very kind of modern interpretation or modern notion.

11 Q. You mean equality between --

12 A. Between Muslims and Christians; that there ought to be
13 complete equality of citizenship, rights, ability to serve in
14 government. This would be regarded as a reinterpretation of
15 traditional Islam, so it would be seen as a progressive or
16 reformist position.

17 Q. Would you think that this article by Jamil Hamami would
18 be something you would expect from a radical fundamentalist?

19 A. It would leave somebody of that position -- When people
20 take that kind of position, they usually come under strong
21 criticism from radical fundamentalists as basically
22 compromising the religion, selling out.

23 Q. Doctor Esposito, I have one final question for you. In
24 your opinion, why is it important for us here to understand
25 Islam?

1 A. Well, I think that when --

2 MR. JACKS: Your Honor, I am going to object on the
3 grounds of relevancy. That is not his purpose to tell us
4 that.

5 MS. HOLLANDER: In the context of this case, Your
6 Honor.

7 THE COURT: I will overrule the objection. He may
8 answer that. Go ahead.

9 MS. HOLLANDER: Thank you.

10 THE WITNESS: I think that when you go to make a
11 judgment about any, you know, sort of -- that involves any
12 people or culture, it is very important that you understand
13 the people and the culture involved so that you have a context
14 for making an informed judgment.

15 Q. (BY MS. HOLLANDER) And is there anything particular
16 about Islam that you think needs to be understood in the case?

17 A. I think the challenge that people have when they don't
18 know another -- a group -- I saw it growing up as an ethnic
19 Italian, and if people didn't know what Italians were like, or
20 when I didn't know somebody who was Irish, I would generalize
21 from one or two instances. So I grew up at a time where
22 Italians were seen as the mafia. And it was important to me
23 that people understand who I was and, you know, what Italians
24 were, what Catholics were like, so they could make a variety
25 of distinctions. And I think that is very important.

1 Just as if you don't know anything about Christianity,
2 you don't want to judge Christianity by people who blow up
3 abortion clinics or commit other acts of violence. You want
4 to be sure that you know the broader context of people that
5 you are looking at.

6 MS. HOLLANDER: I will pass the witness, Your Honor.

7 THE COURT: Any counsel have any additional
8 questions, Defense counsel?

9 MS. MORENO: No, Your Honor.

10 MR. WESTFALL: No, Your Honor.

11 MS. CADEDDU: No, Your Honor.

12 THE COURT: Mr. Jacks?

CROSS EXAMINATION

14 By Mr. Jacks:

15 Q. Doctor Esposito, you made reference to the organization
16 CAIR, C-A-I-R.

17 A. Correct.

18 Q. And I believe you said that you have appeared at their
19 functions many times. Is that correct?

20 A. I have spoken at functions a number of times. Yeah. I
21 don't know what many would be, but a number of times, sure.

22 | 0 Could give us an idea --

23 A. How many?

24 Q. Yes, approximately.

25 A. In my lifetime, make six, five, something like that.

1 Maybe six.

2 Q. Over what period of time?

3 A. The last 15 years, something like that. I think CAIR
4 began, I am not sure, but around 1995, let's; say so the last
5 13 years, yeah.

6 Q. And when was the last time you spoke at a CAIR function?

7 A. A couple of months ago. But I speak an awful lot. I
8 don't remember exactly when. I will be speaking in Tampa in a
9 week, a week and a half, at a CAIR function.

10 Q. And where was the CAIR function that you spoke at a
11 couple of months ago?

12 A. California? It wasn't California. It might have been
13 Dallas.

14 Q. Are you having a hard time remembering where it was?

15 A. Yeah. I speak at least three times a week nationally and
16 internationally. But it is a matter of record so, I mean,
17 that is --

18 Q. I know. I am just -- My question is did you have to
19 search your memory as far as where you last spoke for a CAIR
20 -- at a CAIR function? You weren't sure that it was in
21 Dallas?

22 A. I know I spoke at a fundraiser in Dallas, and it may well
23 have been CAIR, but that wasn't in the last few months. That
24 would have been about six months to a year ago, as I remember
25 it.

1 Q. Did you speak at one in August during the time that this
2 trial was going on or when the jury selection process was
3 going on?

4 A. This past August?

5 Q. Yes. August of 2008.

6 A. Entirely possible.

7 Q. You don't remember if you were in Dallas in August of
8 2008 --

9 A. That is right. Yes. If you saw my travel schedule,
10 yeah.

11 Q. So your answer is you don't remember that you were in
12 Dallas about --

13 A. I remember being in Dallas. I don't remember the exact
14 month. That is absolutely correct.

15 Q. Were you in Dallas for a CAIR function?

16 A. I said that I thought it was a CAIR function. It was a
17 fundraiser, and I think it was a CAIR function, and it may
18 have been in August. It may have been in July.

19 Q. And what was the -- Who was the beneficiary of this
20 fundraising?

21 A. It was the local -- It would have been the local CAIR
22 organization.

23 Q. What was the fundraising going to be used for?

24 A. It was for the work that CAIR does.

25 Q. Well, was there any specific purpose that these funds,

1 whatever they were going to be raised for, were going to be
2 used for?

3 A. Not that I am aware of.

4 Q. Are you familiar with the Muslim Legal Defense Fund?

5 A. Yes. I don't know a lot about it, but I know the name,
6 you know, yeah.

7 Q. Have you ever contributed to it?

8 A. No.

9 Q. Have you ever spoke on their behalf?

10 A. No.

11 Q. And do you know what their purpose is?

12 A. Not beyond what the words communicate, no.

13 Q. So you don't have any idea what the Muslim Legal Defense
14 Fund is created for or what its function is?

15 A. Other than what the obvious terms seem to say. There is
16 the Muslim Legal Defense Fund. There is also a Muslim
17 Advocates -- another association called Muslim Advocates, but
18 I don't work with them. I don't have anything to do with
19 them.

20 Q. And is the Muslim -- Do you know that the Muslim Legal
21 Defense Fund is to raise money to pay attorneys fees for --

22 A. Yeah.

23 Q. -- certain persons?

24 A. Yeah, sure. From the very title, that is what I would
25 have expected, but -- You know, I haven't read their charter,

1 but that is what I would have expected, yes.

2 Q. And to pay attorney fees for the Defendants in this case.

3 A. No, that I didn't know.

4 Q. You are not -- You have no idea that that is one of its
5 functions?

6 A. No.

7 Q. Do you know where it is headquartered?

8 A. No.

9 MR. WESTFALL: Your Honor, may we approach?

10 THE COURT: Come on up.

11 (The following was had outside the hearing of the
12 jury.)

13 THE COURT: Why is this relevant?

14 MR. JACKS: It goes to his bias, Your Honor, that he
15 has participated and spoken. I kind of question his veracity
16 when he talks about that he is not familiar with it, but that
17 goes to his bias.

18 MS. HOLLANDER: Your Honor, I think we need an
19 instruction that most of us are appointed CJA.

20 MR. WESTFALL: We are all CJA except one person.

21 MR. JACKS: Your Honor, the CJA defendants have been
22 out raising funds, so they are not excluded from --

23 MS. HOLLANDER: They have not been raising funds to
24 pay the CJA attorneys. And there is only one Defendant who is
25 getting any money that is not CJA, and this is totally

1 improper.

2 THE COURT: I just don't know the relevance. I
3 mean, in terms of his bias, but these other details you are
4 wanting to get into whether they are raising money for this, I
5 don't know how that is relevant to this case, other than just
6 injecting another issue.

7 MR. JACKS: I am going to stop now. He says he
8 doesn't know. I question the veracity of that, but I am stuck
9 with the answer.

10 THE COURT: So you are through with the issue?

11 MR. JACKS: Yes.

12 MS. CADEDDU: We request an instruction.

13 THE COURT: I will discuss that later. Remind me
14 later.

15 (The following was had in the presence and hearing
16 of the jury.)

17 Q. (BY MR. JACKS) You -- I think you said, in fact, your
18 next scheduled appearance on behalf of CAIR is in a couple of
19 weeks. Is that correct?

20 A. I am scheduled to speak at a CAIR event on November 14 or
21 15. I am not sure which date. I think it is a Saturday night
22 in November.

23 Q. And you are the keynote speaker. Is that correct?

24 A. Yeah, I am either the or one of the keynote speakers.

25 Q. And do you know who were the original founders or

1 officers of CAIR?

2 A. I have met one or two people who are among the original
3 founders. One is -- I don't remember the name, but somebody
4 based in California, and also any Nihad Awad who has been the
5 executive director since the beginning of the organization,
6 and Ibrahim Hooper, who is still -- has been also from the
7 beginning of the organization with them.

8 Q. And you said Nihad Awad is one individual you know, and
9 you said the other individual is from California?

10 A. I think the original founder is somebody from California,
11 but I don't remember his name, from maybe Santa Clara. I am
12 not sure.

13 Q. Does the name Omar Ahmad, does that refresh your memory?

14 A. Yes, that would sound right.

15 Q. And have you met him?

16 A. Yes.

17 Q. Several times?

18 A. Maybe twice.

19 Q. Do you also know him as Omar Yehia? Has he ever been
20 introduced by that name?

21 A. No.

22 Q. You indicated that you are being paid --

23 A. Yes.

24 Q. -- to be here?

25 A. Yes.

1 Q. What is your fee?

2 A. It is in the vicinity of \$400, but I am not exactly sure;
3 maybe \$400, \$420.

4 Q. An hour?

5 A. An hour, yes.

6 Q. And in terms of -- That is for in-court time, or is there
7 a separate fee for consultation?

8 A. It is \$400 or \$420 fee per hour for in-court or
9 preparation, whatever I would be doing related to the case.

10 Q. And do you know what amount you have incurred to bill?

11 A. No, I haven't bothered to figure it out. I haven't done
12 an invoice yet, no.

13 Q. Can you give us an estimate of the amount of time you
14 spent?

15 A. This could afford my salary if I undershoot it. Let's
16 see. I probably put in about 20 hours, 25 hours. I would
17 have to go back and look at my Blackberry, among other things,
18 which I don't have with me.

19 Q. You testified about the Muslim Brotherhood, and your
20 opinions about that organization. Is that correct?

21 A. Yes.

22 Q. And it is a 20th century organization. Correct?

23 A. Correct.

24 Q. And in terms of -- You said -- Do you consider yourself
25 an expert on the Muslim Brotherhood?

1 A. I do, and so do many other people.

2 Q. And what is the motto of the Muslim Brotherhood?

3 A. Well, you mean in terms of its crest, its crest?

4 Q. Well, what is the expression that the members of the
5 Muslim Brotherhood refer to as its creed or credo or motto?

6 A. I don't know. I have referred to it, but it is not a
7 major -- I don't think about that regularly. I think about
8 who the Muslim Brotherhood is and what it does.

9 Q. Well --

10 A. It is related to -- Obviously it is related to, you know,
11 to God, et cetera, but I don't remember the exact words of the
12 motto, no.

13 Q. But they do have a motto or a creed?

14 A. Yes. It is listed right under -- If you go to the Muslim
15 Brotherhood web page or you go to the office of the Muslim
16 Brotherhood in Cairo, they would have a crest, you know,
17 like -- Not a crest --

18 Q. A logo?

19 A. A logo. And then they would have the motto below the
20 logo. But at this particular point I don't remember the logo.

21 Q. Is it similar to the Hamas motto?

22 A. The Hamas motto is similar in terms of its coming
23 from -- I am sorry. It is coming from the Muslim Brotherhood.
24 But when you actually look at the teasing out of what Hamas
25 stands for -- In other words, if you study its charter, then

1 its charter is at least 50 percent significantly different;
2 let's say any of the charters of the Brotherhood past and
3 present.

4 Q. My question was just about the Hamas motto and its
5 similarity to the Muslim Brotherhood motto.

6 A. It would be similar.

7 Q. And you don't know what the Muslim Brotherhood motto is?

8 A. I have said that four times. Yes.

9 Q. Do you know the Hamas motto?

10 A. I have seen it before, but no, I don't.

11 Q. Do you consider yourself an expert on Hamas?

12 A. I said earlier that I am not. I have written on Hamas,
13 but I don't consider myself an expert on Hamas because I
14 haven't spent as much time interviewing Hamas leaders,
15 including the fact that you can't interview Hamas leaders very
16 easily today.

17 MR. JACKS: Just a moment, Your Honor.

18 Your Honor, I would ask that Government's Exhibit
19 Demonstrative No. 9 be displayed.

20 THE COURT: Is that in evidence?

21 MR. JACKS: Yes.

22 THE COURT: All right. Yes, sir.

23 Q. (BY MR. JACKS) Doctor Esposito, I am going to show you
24 what has been admitted as a demonstrative exhibit.

25 MR. JACKS: And if you could, Mr. Lewis, just show

1 the first page of the exhibit, if you would.

2 Q. (BY MR. JACKS) Let me just ask you, Doctor Esposito, do
3 you recognize what is shown on the left hand side of the
4 screen as the cover of the Hamas charter.

5 A. Yes.

6 MR. JACKS: If you would, Mr. Lewis, go to the next
7 page, please.

8 Q. (BY MR. JACKS) Are you familiar with the Hamas charter,
9 Doctor Esposito?

10 A. Yes. I mean, I have read it a number of times. I
11 haven't memorized it, but I read it. I discuss it in fact in
12 my book on holy war.

13 Q. And that excerpt that is shown there on this page, is
14 that part of the introduction--"Israel will exist and will
15 continue to exist until Islam will obliterate it, just as it
16 obliterated others before it"?

17 A. Yes.

18 MR. JACKS: And would you go to the next page,
19 please, Mr. Lewis?

20 Q. (BY MR. JACKS) Is this also a part of the
21 Introduction--"this covenant of the Islamic Resistance
22 Movement (Hamas) clarifies its picture, reveals its identity,
23 outlines its stand, explains its aims, speaks about its hopes,
24 and calls for its support, adoption and joining its ranks"?
25 Is that also a part of the introduction?

1 A. Yeah.

2 Q. I think I talked over you. Was your answer --

3 A. Yes. I am sorry.

4 MR. JACKS: And if you would go to the next page,

5 Mr. Lewis.

6 Q. (BY MR. JACKS) And the excerpt on the top where it
7 states Article II--"The Islamic Resistance Movement is one of
8 the wings of Muslim Brotherhood in Palestine." Is that an
9 accurate recitation of Article II or part of article II?

10 A. Yeah, correct.

11 Q. And at the bottom, the excerpt from Article III says, "In
12 all that, they fear Allah and raise the banner of jihad in the
13 face of the oppressors so that they would rid the land of the
14 people of their uncleanliness, vileness, and evils." Is that
15 a part of Article III?

16 A. Yep, yes.

17 Q. And jihad in that sense, would you agree, that that is
18 the --

19 A. Arms struggle again the oppressors.

20 Q. Militaristic jihad?

21 A. Yes.

22 MR. JACKS: And go to the next page, Mr. Lewis.

23 Q. (BY MR. JACKS) This shows to be an excerpt from Article
24 VI, quoting, "The Islamic Resistance Movement is a
25 distinguished Palestinian movement whose allegiance is to

1 Allah, and whose way of life is Islam. It strives to raise
2 the banner of Allah over every inch of Palestine, for under
3 the wing of Islam followers of all religions can coexist in
4 security and safety where their lives, possessions, and rights
5 are concerned. In the absence of Islam, strife will be rife,
6 oppression spreads, evil prevails, and schisms and wars will
7 break out." Is that an accurate recitation?

8 A. Yeah.

9 Q. When it speaks about every inch of Palestine up there, is
10 it your understanding that they are referring to all of what
11 now comprises the state of Israel?

12 A. Yes, that is where you have the -- I mean, the source of
13 the conflict. That is as it is greater -- Palestine is
14 greater Israel, and then the notion of some Israelis of
15 greater Judea and Samaria. So correct, the claims to the
16 total territory, yes.

17 Q. So Hamas is not just seeking the West Bank and Gaza.
18 They are seeking all of what comprises the state of Israel.

19 A. They would see that as -- Yes. I mean -- Yes.

20 MR. JACKS: If you could go to the next page, Mr.
21 Lewis?

22 Q. (BY MR. JACKS) And this excerpt from Article VII, "The
23 Prophet, Allah bless him and grant him salvation, has said,
24 'The day of judgment will not come about until Moslems fight
25 the Jews, killing the Jews, when the Jew will hide behind

1 stones and trees. The stones and trees will stay, "O,
2 Moslems, O Abdullah, there is a Jew behind me. Come and kill
3 him." Only the gharkad tree (evidently a certain kind of
4 tree) would not do that because it is one of the trees of the
5 Jews.'" And then it has a reference there.

6 Is that an accurate recitation of what is in Article VII?

7 A. Yes.

8 Q. And you said this phrase comes from the Quran?

9 A. No. You can see the reference right at the bottom,
10 "related to Al-Bukhari and Moslem." These are two -- the
11 names of two people who were collectors of the traditions of
12 the Prophet. This would be narrative stories about what the
13 Prophet said or did.

14 Q. Is there a term for those --

15 A. It is hadith.

16 Q. Hadith, H-A-D-I-T-H.

17 A. H-A-D-I-T-H. And so what this clearly indicates is it is
18 not from the Quran, but it is from one of those statements or
19 traditions, yeah.

20 Q. Okay. So it is attributed to Muhammad?

21 A. The Prophet. Correct.

22 Q. So it is something he said.

23 A. It is attributed to him.

24 Q. Correct. Whereas the Quran is what Muhammad says he was
25 told by the Archangel Gabriel?

1 A. Right. The Quran is seen as the word of God. The
2 traditions of the Prophet are what the Prophet -- what is
3 attributed to the Prophet in terms of what he either said,
4 did, yeah.

5 Q. Okay. And your point was that this phrase has been
6 adopted, if you will, by Hamas in its charter.

7 A. Yes, you have this as Article VII, yes.

8 Q. And you also said, I believe in your direct examination,
9 that this is the phrase that Yousef Qaradawi has repeated.
10 And, in fact, there was a videotape presented in this trial in
11 which he reiterated this phrase. Is that correct?

12 A. I was responding to the Defense lawyer. I didn't bring
13 it up, but yes --

14 Q. I understand.

15 A. But yes, I corroborated, yes.

16 Q. So this Yousef Qaradawi is -- recently he is still
17 repeats this phrase.

18 A. As recently as the statement that you have, yes.

19 Q. Okay. And you said that -- I believe you said it was
20 your opinion that he is not -- It is not an anti-semitic
21 statement. It is a statement against the government of
22 Israel.

23 A. I said that what Qaradawi would say is that -- not what
24 he would say, what he has said, is that the statement is
25 against the government of Israel, the Israeli occupation of

1 the land. That is not meant as against Judaism as a religion
2 or religious Jews. That is what Qaradawi has said. It is not
3 what I am saying.

4 Q. But that is not what he said, though, is it? I mean, he
5 didn't say -- When he repeats this phrase, he doesn't
6 substitute Israel or the government of Israel or Israelis. He
7 uses the phrase the Jews.

8 A. You would have to look at the context, yes. Because you
9 would refer to people -- I mean, when you are referring to
10 people in a context, for example, of let's say a country where
11 people are identified --

12 Q. May I interrupt you just --

13 MS. HOLLANDER: Objection, Your Honor. He is
14 answering the question.

15 THE COURT: Well, what were you going to say,
16 counsel?

17 MR. JACKS: My question was that he does not
18 substitute the word Israel or the government of Israel; that
19 he uses the word Jews.

20 THE COURT: Yes, and I think he was explaining that.
21 Go ahead.

22 THE WITNESS: When you are dealing with a situation
23 in which people are identified by -- as a Jew, as a Muslim, as
24 a Christian -- For example, in Palestine when you are
25 referring to the human beings, you would refer to them as

1 Jews, Muslims, or Christians. If he had said Israelis, that
2 really wouldn't have been accurate because there are Israeli
3 Christians and there are -- You know, but I am just -- I can't
4 say what his intention was. I can just tell you if you look
5 at the context I think it is clear. The context is he is
6 talking about the situation in Israeli and Palestine.

7 Q. I thought you just did try to tell us what his intention
8 was. Wasn't that what you were trying to do?

9 A. No. I said what I said. I said that basically when you
10 are dealing with a context in which people are identified in
11 that context by their religion -- For example, here we don't
12 do that normally in our society. But in some societies, in
13 Northern Ireland people are identified as Protestant or
14 Catholic. So if you are making a political statement even,
15 you are not talking about their belief or whether they
16 practice or not. You will say -- They would say they are
17 Catholic or Protestant. And in general this is a common
18 usage.

19 Q. Well, before you even start talking about context, how
20 about is it a good technique to just look at what they said
21 and what is said in black and white on paper, or what they
22 say? Is that a good reference to determine what somebody
23 means--just look exactly at what their words --

24 A. No text can be interpreted without looking at the context
25 in which they say it.

1 Q. And with regard to --

2 MR. JACKS: Would you go to the next page, Mr.
3 Lewis?

4 Q. (BY MR. JACKS) And this refers to the slogan of the
5 Islamic Resistance Movement, and it is Article VIII. "Allah
6 is its target, the Prophet is its model, the Quran its
7 constitution. Jihad is its path and death for the sake of
8 Allah is the loftiest of its wishes."

9 And does that refresh your memory regarding what the
10 slogan or motto of the Islamic Resistance Movement, Hamas, is?

11 A. It tells you exactly what their goal is in terms of
12 fighting against the occupation, yes.

13 Q. And that is their slogan. They have called it their
14 slogan or motto.

15 A. Yeah.

16 Q. And does that refresh your memory regarding the Muslim
17 Brotherhood as far as what their slogan or motto is?

18 A. The Muslim Brotherhood, the usual slogan is usually seen
19 and described in terms of the first sort of sense of Allah and
20 the Prophet is the model and the Quran is the constitution.
21 Usually in most statements the "death for the sake of Allah is
22 the loftiest of wishes," you will find that in Muslim
23 Brotherhood statements, but it is not sort of featured in
24 general as -- It is not interpreted in the same way that it
25 is, clearly, by a group like Hamas.

1 Q. I am not -- I am just asking you, do they have a slogan?

2 A. Yes.

3 Q. The Muslim Brotherhood.

4 A. And it would be similar to this slogan, yes.

5 Q. And again, it would have the reference to Allah as the
6 target or goal, the Prophet Muhammad is their model, the Quran
7 its constitution, jihad --

8 A. Jihad is the method or path, yes. And dying for God is
9 honorable or lofty, yes.

10 Q. You have talked about different aspects of the Islamic
11 faith and you have defined -- sought to define certain words.
12 And you have talked about the word martyr, and you said that
13 martyr or martyrdom is when a person gives ones life for their
14 faith.

15 A. When one sacrifices ones life for their faith or their
16 community.

17 Q. And you talked about the term Mujahideen. Do you recall
18 that?

19 A. Yeah, Mujahideen, yeah.

20 Q. And how does that literally translate?

21 A. One who struggles. Yeah, one who struggles.

22 Q. Has it been translated holy warrior?

23 A. Freedom fighter, holy warrior, a variety, but that is not
24 what the Arabic would mean. The Arabic literally means one
25 who strives or struggles.

1 Q. And in reference, for example, to the Mujahideen in
2 Afghanistan that were fighting against the Soviets, those were
3 soldiers or fighters. Correct?

4 A. Correct.

5 MR. JACKS: Let me ask you, Mr. Lewis, to pull up
6 HLF Search No. 109.

7 Q. (BY MR. JACKS) And I believe this is an exhibit you were
8 asked about on direct examination. I think it was page 140.

9 MS. HOLLANDER: I didn't ask about this on direct.
10 I asked about HLF No. 108 page 140 and 106 page 140. I didn't
11 ask about No. 109.

12 MR. JACKS: Okay. Mr. Lewis, go to No. 108 then.

13 MS. HOLLANDER: I stand corrected, Your Honor. It
14 is my confusion. I did ask about No. 109, and it was
15 something else.

16 MR. JACKS: Go back to No. 109, please, and go to
17 page 140.

18 Q. (BY MR. JACKS) And do you see -- You were asked
19 about -- This is -- First of all, let me orient you. This is
20 an interview of Sheikh Ahmed Yassin the founder of Hamas.
21 Correct?

22 A. Yeah, I see his name in there, but you would know the
23 context.

24 Q. And do you see where he was asked what was the name of
25 the military wing of the Hamas movement?

1 A. What paragraph would that be in? I see it. Yeah, I see
2 the arrow. What was the name of the military wing. Yeah, the
3 Palestinian Mujahideen.

4 Q. So he defined that term. Correct?

5 A. He used the term.

6 Q. Right.

7 A. He doesn't define it here. He just uses it. I don't see
8 a definition of it.

9 Q. Well, he was asked, "What is the name of the military
10 wing of Hamas prior to the Intifada?"

11 A. Right.

12 Q. And he says it was the Palestinian Mujahideen.

13 A. Yeah, he gives that name, yes.

14 Q. So he is using that term in the military fighter sense.

15 A. Correct, yes.

16 Q. So not in the sense of Palestinian struggling to be a
17 good Muslim. He is saying that it means the military wing of
18 Hamas prior to the Intifada.

19 A. Correct.

20 Q. And obviously, by the way, you are not a native speaker
21 of Arabic.

22 A. Native speaker? No. I am Italian-American.

23 Q. You said that the -- You were asked about the term
24 takfir. Am I pronouncing that right?

25 A. I was asked about the term takbir. There is a term

1 takfir as well.

2 Q. Which one were you asked about?

3 A. Takbir.

4 Q. And spell that, please, just for the record?

5 A. T A-K-B-I-R.

6 Q. And what does that mean?

7 A. It is like saying effusively hallelujah in a certain
8 religious context. If somebody really likes something, they
9 say takbir. It is almost like "That's great." And then
10 Allahu akbar, meaning God is the greatest.

11 Q. And how does it literally translate?

12 A. It means it is big, that is good, it is great.

13 Q. Is it used as a call to get people to say "God a great"?

14 A. Yeah, the equivalent of getting people, yeah, to
15 applause, be supportive, yeah; show approval. It is very
16 often used to kind of get people to show approval, for
17 example, for what they have just heard, for what somebody has
18 said in a speech or a position they have taken.

19 Q. You said that you have talked to some Hamas leaders?

20 A. Yes. I said that I met and interviewed some Hamas
21 leaders in Jordan, and that obviously I -- Today one would say
22 having known somebody like Ahmed Yousef, who is associated
23 with Hamas now, when I spoke with him I didn't know he was a
24 member of Hamas, but he would be Hamas, yeah.

25 Q. He obviously was.

1 A. I don't know that he obviously was at that time. I don't
2 know that he was a member of Hamas at that time, but he
3 clearly -- now he would be. He is the political advisor and
4 the role he plays, he would be a member of Hamas; yeah, yes.

5 Q. Who were the Hamas leaders you have interviewed or talked
6 to?

7 A. It was 15 years ago. I have no idea. I mean, they would
8 have been people who ran the Hamas office in Jordan, so they
9 wouldn't have been like the senior leaders of Hamas, you know,
10 like Rantisi and some others, so I wouldn't even remember
11 their names.

12 Q. Did you document it in your research?

13 A. No, because I wasn't writing on Hamas at the time.

14 Q. What was your purpose in meeting with them?

15 A. When I go to any area, I meet with members of government
16 if I can, members of the opposition, and I meet with Islamic
17 Movement people in any country that I go to. I do it in
18 Malaysia. I do it all over. In some cases I do extensive
19 interviews, and if the information sounds useful to something
20 I am writing, then when I go back to the hotel I take notes on
21 it. But that was simply going to just meet with -- Among
22 others, I met with Hamas people. I met with a lot of people
23 who belonged to both secular and religious movements.

24 And it was just to see the office and how big was it,
25 what did they do, and they were basically -- That was it. It

1 was a small operation, as I remember.

2 Q. Did you finish your answer?

3 A. Yeah.

4 Q. Okay.

5 A. Yes.

6 Q. What year was it that you met them?

7 A. I just said I have no idea. It was 10 or 15 years ago.

8 I travel lots of times. I don't have --

9 Q. Where did you meet them?

10 A. As I said, in Jordan, in Amman, the capital of Jordan.

11 Q. Where in Amman did you meet them?

12 A. I have no idea.

13 Q. You don't know where you were in Amman?

14 A. I don't know where I am in Dallas right now. I mean, I
15 just go to a place. I don't know the city. I have been to
16 Amman many times, but I couldn't -- If you and I went to
17 Amman, I couldn't -- and you gave me a street, I probably
18 wouldn't be able to take you to the street. I would need a
19 taxi driver to take me there.

20 Q. How did you get in touch with them?

21 A. They were -- When you are doing research, you meet people
22 -- For example, you go to a think tank, a Jordanian think
23 tank, and you talk to people in the Jordanian think tank. And
24 you say, "What are the most viable movements here? What are
25 the most viable political parties here?" And then often

1 people will either give you the name or they will put you in
2 touch with somebody and arrange for you to go there.

3 Q. Have you finished your answer?

4 A. Yes.

5 Q. How did you get in touch with these gentlemen?

6 A. I just told you the process I use. I have no idea.

7 Q. I am not asking the process. I am asking you --

8 A. I just answered you directly and said I have no idea.

9 Q. Are these the only two Hamas leaders that you have met?

10 A. To my knowledge -- I mean, I may have run into people in
11 meetings, you know, in Europe or some place in social
12 conversation, but not -- They are the only people that I know
13 to my knowledge that I was aware of were Hamas leaders, yeah.

14 Q. And you sought them out because they were Hamas leaders?

15 A. No. I just said I sought them out because when I go to a
16 country I attempt to talk to people who are -- particularly to
17 people who deal with the political and social situation, and
18 even more specifically, since I work on Islamic Movements, to
19 representatives of any Islamic Movement that might be there.

20 And so in Jordan I would have gone to see members of the
21 Muslim Brotherhood, I would have gone to see members of their
22 political party, the Islamic Action Front, and I would have
23 gone to see an office of Hamas or any other
24 Islamically-oriented group that would have been in Jordan, or
25 in any country I go to.

1 Q. And you do that for your profession. Is that your
2 testimony?

3 A. Yes, that is what I do. That is who I am.

4 Q. All right. But you don't have any notes from that --

5 A. That particular meeting, no, because it wasn't
6 consequential.

7 Q. And you cannot tell us who those leaders were?

8 A. No. It was probably a conversation that lasted for one
9 hour, and most of it was probably somebody telling me, you
10 know, "This is what our office is like. This is what we do
11 here." And if it had been of any consequence, I would have
12 taken notes on it and I would have written on it. I have
13 never referred to that particular office in my speaking or my
14 writing.

15 Q. And then you said that you may have met Hamas leaders in
16 a social setting in Europe or somewhere like that?

17 A. No, what I said was that I can't rule out the fact that I
18 may have run across somebody who was a Hamas leader at a
19 conference in Europe, because years ago before Hamas was
20 declared a terrorist organization, if you went to professional
21 conferences, for example, in Europe or any place, you would
22 have academics, you would have movements.

23 I just went two years ago to Kuwait. They had leaders of
24 various Islamic Movements; not Hamas. It was run by the
25 Kuwaiti government. But they had leaders of a variety of

1 movements. Fifteen years from now one of those people might
2 be identified, or a movement, as a terrorist movement. So I
3 said it was conceivable that 15 years ago I might, or 12 years
4 ago I might have run into somebody in a social conversation at
5 a conference when you are standing around during a break.

6 Q. Well, I mean, is it your testimony that they would have
7 been Hamas members or leaders and you would not have known it?
8 Is that what you are saying?

9 A. Sure, they could have been, as with anybody that you
10 don't know.

11 Q. Well, my question was not directed at who you may have
12 met in a social setting. My question was directed at your
13 statement that you may have met Hamas members in a social
14 setting, and I was trying to explore that answer. And so my
15 follow-up question is, what is the context that you were
16 talking about in terms of your answer that you may have met
17 Hamas members in social settings?

18 A. I think I have answered that. I will say it again. The
19 reality of it is -- it is entirely conceivable that 12 years
20 ago I could have met people that belonged to all kinds of
21 groups, political parties, or movements, and I would not have
22 been aware of it. So basically it was actually a throw-away
23 line. It was just when you asked me how many Hamas leaders
24 have I known, I basically said I have only known or run into
25 or talked to several that I know of. That is what I am

1 saying--several that I know of.

2 Q. All right. And now it is several. And just to follow up
3 on that statement, who are the several that you know of?

4 I told you before, I said that Ahmed Yousef would
5 have been one, and that -- I probably spoke to two people in
6 Jordan who I knew were members of Hamas because it was called
7 the Hamas office. I think I said that twice before.

8 Q. Do you know -- Let me ask this first question. Have you
9 met Mousa Abu Marzook?

10 A. Not that I am aware of. But I did see a picture of him
11 in some of the materials that were provided to me recently,
12 and in looking at his biography, his face looked familiar to
13 me. So I may have met him in Washington at a function, but I
14 don't remember having a specific conversation with him. But I
15 know that he did live in the U.S., and I think he was in
16 Washington. We may have overlapped at a time in Washington,
17 but it is not clear to me.

18 Q. And you do know who he is. Correct?

19 A. Yeah.

20 Q. And just for the sake of the record, who is he from you?

21 A. He is -- Today he is a Hamas leader who is reported to be
22 living in Syria.

23 Q. What is his position currently?

24 A. Political affairs or something like political affairs. I
25 really don't -- I don't deal with Marzook. I don't deal with

1 him academically, you know.

2 Q. I understand. But you say that you have studied Hamas,
3 and --

4 A. You remember I said early on that I am not an expert on
5 Hamas; that I have read about Hamas, that as I have studied
6 Hamas, like I have studied a number of groups, not in the way,
7 for example, I studied the Muslim Brotherhood. If I had, I
8 would have spent a lot of time interviewing Hamas leaders,
9 Hamas groups, et cetera. I have never done that. So Hamas
10 is -- I wouldn't -- If I had been asked, for example, to be an
11 expert witness on Hamas in this trial, I would have declined.

12 Q. Do you know what position Mousa Abu Marzook held before
13 he became the deputy political chief?

14 A. No, I don't.

15 Q. Did you know that he at one time was the head of Hamas,
16 the political chief of Hamas? Were you aware of that?

17 A. Yeah, I think that is what I said just a little while
18 ago. When I said political affairs I meant political chief,
19 or if that is the official title, yeah. I made that reference
20 I think about three minutes ago.

21 Q. Well, my question is did you know that he was at one time
22 the head of the Hamas Political Bureau, or sector as it is
23 called?

24 A. Yes. But -- Yeah.

25 Q. Do you know when he became head of Hamas or a high

1 ranking --

2 A. High ranking, no. I mean, in biography it was after he
3 left the United States, but I don't really know. I wouldn't
4 have an idea of what year that would be.

5 Q. If there was evidence introduced in this case that showed
6 that he was the leader of a Hamas delegation to Iran in 1990,
7 would that surprise you?

8 MR. DRATEL: Objection to the form of the question,
9 Your Honor.

10 THE COURT: Overruled.

11 THE WITNESS: Would it surprise me?

12 Q. (BY MR. JACKS) Yes. That as early as 1990 he was a
13 leader in Hamas.

14 A. Not necessarily. I don't see any reason why I would be
15 surprised.

16 Q. Well, were you aware of that fact?

17 A. No.

18 Q. You talked about the United Association for Studies and
19 Research.

20 A. Yes.

21 Q. And you described it as a what?

22 A. Basically a function in Washington as a think tank. They
23 held seminars at their think tank in which they invited
24 speakers, Muslim, non-Muslim, even strong critics like Daniel
25 Pipes, and they produced a journal fairly regularly, both

1 in -- I think you actually have an example of it. I think
2 they have articles, or used, to both in English and Arabic.

3 So they were seen as one of the think tanks in
4 Washington. They probably would have been -- in those times
5 would have been invited -- I am trying to think now. But
6 right after 9/11 Secretary of State Powell invited leaders,
7 Arab and Muslim leaders in the area to a meeting at the State
8 Department, and I think somebody from a UASR was invited to
9 that meeting, so that was their profile.

10 Q. Did you finish your answer?

11 A. Yes.

12 Q. Do you know who founded the UASR?

13 A. The person I normally associate with UASR is Ahmed
14 Yousef, but I know that Marzook also was one of the -- or at
15 least reported to be one of the original founders of the UASR.

16 MR. JACKS: Could you, Mr. Lewis, bring up Secretary
17 of State Virginia No. 1? And if you would go to page --

18 Q. (BY MR. JACKS) Let me direct your attention, Doctor
19 Esposito -- this has been an exhibit admitted. It is from the
20 Secretary of State of Virginia. It is an annual report to a
21 corporation, United Association for Studies and Research, and
22 the individuals shown there under entry No. 2, Yousef Saloh,
23 is that the individual that you are -- that you have made
24 reference to?

25 A. No.

1 Q. All right.

2 A. Yousef Saloh, no.

3 Q. All right. And did you ever know Ahmed Yousef by the
4 name Yousef Saloh?

5 A. No.

6 MR. JACKS: Would you go to page 10, Mr. Lewis, and
7 the middle of the page?

8 Q. (BY MR. JACKS) And in terms of the officials connected
9 to the UASR, do you see Mousa Abu Marzook's --

10 A. Actually I can't read this screen.

11 Q. All right. Is that better?

12 A. This looks like it. I feel like I am doing an eye exam.
13 The second from the bottom, yeah, I can make that out, yeah.

14 Q. How about the name above that Mohammed Adlouni?

15 A. Say the last -- Could you spell that out for me?

16 Q. A-D-L-O-U-N-I?

17 A. No, I am not familiar with that name.

18 Q. What about Mohammed Akram? Do you know that name or
19 Mohammed Akram Adlouni?

20 A. No.

21 Q. But you were aware that Mousa Abu Marzook was one of the
22 founders of the United Association for Studies and Research.
23 Is that correct?

24 A. Yeah. When I did background, yes.

25 Q. I am sorry?

1 A. Yes.

2 Q. When you did background, what did you mean?

3 A. When I was looking over material, it was clear, and I
4 remember at the time -- I think there was a story in the New
5 York Times years ago in which they referred to him as one of
6 the founders. But in my experience, the main person that I
7 had always dealt with was Ahmed Yousef, so I always thought of
8 Ahmed as the person that ran the think tank.

9 Q. And how far back does your association with the UASR go?

10 A. Probably -- I came to Washington in 1993, so it would
11 have been after that period, and probably certainly late '90s,
12 maybe. I am not sure if they were in existence in 1995 or
13 '96, but it may have been as far back as that. It would have
14 been definitely in the last part of -- I would say the last
15 part of the 1990s.

16 Q. You said you have looked at documents prior to your
17 testimony today. Is that correct?

18 A. Documents that were provided to me, yeah, and then also
19 in preparing on my own, you know, go and do research.

20 Q. What documents did you look at?

21 A. Some of the documents that had to do with testimony that
22 was given in this trial by Mr. Avi, A-V-I, a Mr. Levitt, and
23 some of the documents that you referred to, Elbarasse, those
24 would have been provided to me. And then what I meant by -- I
25 used the documents also in terms of, you know, going up and

1 looking at stuff on the internet or whatever other materials I
2 had. I didn't necessarily mean just legal documents. I meant
3 that it in a generic sense.

4 Q. The documents that you looked at, did they have exhibit
5 labels on them to identify them?

6 A. Yes.

7 Q. And were some of them labeled as Elbarasse Search and
8 then a number?

9 A. Yes.

10 Q. And what volume? How many Elbarasse Search documents did
11 you look at?

12 A. It was -- I don't know.

13 Q. You are holding your finger about two inches apart?

14 A. The folder was something like this, yeah, I mean, so it
15 might have been -- I don't know if it would be 20 separate
16 documents or -- you know, in that vicinity I think.

17 Q. Are you familiar with an organization known as the
18 Palestine Committee?

19 A. No. I know the name, but I have not -- I wouldn't know
20 anything about it formally, but I have heard the phrase
21 Palestine Committee.

22 Q. Is it fair to say that you had never heard of it until
23 this trial?

24 A. No. I mean, I have heard the phrase Palestine Committee
25 before, but -- so it would have been before the trial.

1 Q. Would it have been in connection with this case?

2 A. No. I mean, not necessarily, no. It is just, you know,
3 there are a lot of Palestinian groups out there, and so
4 Palestine Committee is a very common phrase--Palestine
5 Committee, Palestine Committee for this. But I don't know --
6 I couldn't distinguish -- I don't mean to trivialize this, but
7 I couldn't distinguish one Palestine Committee from another
8 unless I actually looked at it or studied it, so.

9 Q. You are just saying, then, have heard the word Palestine
10 and committee used together?

11 A. I have heard the terms, yes.

12 Q. But in terms of its use as either a term of art or to
13 refer to a specific organization, you have never heard of
14 that?

15 A. No. I would have only come across it with regard to this
16 case in that sense, yeah. You know what I mean? But I
17 wouldn't have known what it meant before.

18 MR. JACKS: Mr. Lewis, would you please display
19 Elbarasse Search No. 13, please?

20 Q. (BY MR. JACKS) Doctor Esposito, let me show you what has
21 been admitted in evidence as Government's Exhibit Elbarasse
22 Search No. 13, and it is a document in Arabic, but -- I just
23 want you to be able to see the first page. And I take it you
24 can read what is written there?

25 A. Yeah. Can you tell me, what is the source this was

1 taken? Is it -- In other words, is it an authenticated
2 document or is it a document that was taken in a search? That
3 is what I understand, it was taken in a search. Right? From
4 a man's home named Elbarasse?

5 Q. I will get to that. But yes, it was taken in the
6 execution of a search warrant by the FBI when the person
7 didn't know the FBI was coming.

8 A. Right.

9 MR. JACKS: Would you go, Mr. Lewis, to the next
10 page? And go to the next page, please. I am looking for the
11 third page of the English, if you don't mind.

12 Q. (BY MR. JACKS) And do you see this heading, Doctor
13 Esposito?

14 A. Palestine Committee?

15 Q. Yes.

16 A. Yeah.

17 Q. And have you seen this document before?

18 A. Yes, laid out this way, yes.

19 Q. So you have reviewed this document?

20 A. Can I see the full page so I can just be sure? Yeah, I
21 am pretty sure I have gone over that document among the
22 documents that I saw, yeah.

23 MR. JACKS: Mr. Lewis, if you would go back up to
24 the first paragraph that is in bold.

25 Q. (BY MR. JACKS) And do you see there, Doctor Esposito,

1 where it talks about the Palestine Committee and the
2 organizations that make it up or that are connected to it?

3 A. Yes.

4 Q. And do you see, for example, the Islamic Association for
5 Palestine, the Occupied Land Fund, and the United Association
6 for Studies and Research?

7 A. Yes.

8 Q. All right. And do you assume that that is the same UASR
9 that you have worked with?

10 A. Yes, I would expect that would be the case, yeah.

11 MR. JACKS: If you could zoom back out, Mr. Lewis.
12 And go to the next page, please.

13 Q. (BY MR. JACKS) Do you see --

14 A. Financial situation?

15 Q. No. Actually I want to direct your attention to the
16 recommendations and suggestions. Do you see that paragraph or
17 sentence?

18 A. Yeah.

19 Q. And it says, "The committee" -- And presumably that is
20 referring to the Palestine Committee?

21 A. Yes.

22 Q. "...asks the group for more moral support for this work
23 and the committee overseeing it as it represents its strong
24 arm and the one which is specialized in defending the Islamic
25 cause in Palestine and support for the emerging movement, the

1 Hamas Movement." Do you see that?

2 A. Yes.

3 Q. And does that read, to you, that the committee is saying
4 that it is the one which is specialized in support for the
5 emerging movement the Hamas Movement?

6 A. As I read it, what it says is in light of the committees
7 that you just showed me just above in the document, that it is
8 a group of social and politically-oriented organizations that,
9 according to this last paragraph, is supportive or -- Yeah, is
10 supportive of the emerging movement. But I don't know who was
11 saying it, but yes.

12 Q. You would have to -- I mean, you can either take it at
13 face value or --

14 A. Yeah. You have to know who wrote the document, et
15 cetera. But yeah, in terms of the meaning within the text,
16 yeah, I agree.

17 Q. Let me ask you --

18 MR. JACKS: Mr. Lewis, could you display Elbarasse
19 Search No. 8, please?

20 Q. (BY MR. JACKS) And Doctor Esposito, let me just show you
21 what is another document seized from the house of Ismail
22 Elbarasse. And that is an Arabic handwritten document. Would
23 you agree?

24 A. Yep.

25 MR. JACKS: And if you would, Mr. Lewis, go to the

1 first English page.

2 Q. (BY MR. JACKS) And can you see the description or the
3 title for this particular page?

4 A. The Occupied Land Fund report.

5 Q. Doctor Esposito, do you know what the Occupied Land Fund
6 is?

7 A. No, other than what the words sort of communicate, but
8 no.

9 Q. Okay. You have no familiarity with that organization?

10 A. No.

11 Q. You haven't seen -- Have you seen this document before?

12 A. I am really not sure.

13 Q. Okay.

14 A. I saw, as I said, a number of documents that were seized
15 during this raid, but I don't know about this particular
16 document.

17 Q. Okay.

18 MR. JACKS: Your Honor, how long did you want to go?

19 THE COURT: Are you at a good stopping point?

20 MR. JACKS: Yes, Your Honor.

21 THE COURT: Let's take the lunch break. Be back at
22 2:00.

23 (Whereupon, the jury left the courtroom.)

24 THE COURT: All right. We will be in recess until
25 2:00.

(Lunch recess.)

2 MS. HOLLANDER: May we approach very briefly?

3 THE COURT: Yes, come on up.

6 MS. HOLLANDER: Your Honor, I informed the
7 Government that Doctor Esposito is not feeling well. If he
8 asks for a break --

9 THE COURT: Sure. Just have him let me know.

10 MS. HOLLANDER: All right.

11 THE COURT: Jim, how much longer do you have on your
12 cross?

13 MR. JACKS: Thirty or forty-five minutes.

14 THE COURT: All right.

17 THE COURT: Mr. Jacks?

18 MR. JACKS: Thank you, Your Honor.

19 Q. (BY MR. JACKS) Doctor Esposito, I don't suppose over the
20 noon hour that you had any opportunity to check to see what
21 the slogan was of the Muslim Brotherhood

22 A I could have but I didn't

23 Q. Okay. Does this sound familiar--"God is our purpose, the
24 Prophet our leader, the Quran our constitution, jihad our way,
25 and dying for God's cause our supreme objective"?

1 A. Yeah, I -- Yeah, yes.

2 Q. And obviously that is very similar or virtually identical
3 to the Hamas slogan.

4 A. Yes.

5 Q. You talked about the term Islamist. And just so we are
6 clear, we are talking about the word I-S-L-A-M-I-S-T.

7 A. Correct.

8 Q. With a capital I?

9 A. Correct.

10 Q. And your definition of that was what?

11 A. Islamic activist, which can mean somebody who is active
12 in a social or political movement. And I said that you have
13 both mainstream and extremists who could come under that
14 category.

15 Q. Are you familiar with an organization called the
16 International Crisis Group?

17 A. Yes.

18 Q. I suppose it is headquartered in Brussels?

19 A. Yes.

20 Q. Let me just ask you if you agree with this definition.
21 "The word Islamic"--I-S-L-A-M-I-C--"refers to entities that
22 are nominally or generically Muslim."

23 A. Yeah.

24 Q. Okay. And then "Islamist denotes entities which are
25 self-consciously so and formulate explicit political or

1 ideological objectives on this basis."

2 A. Correct.

3 Q. Okay. And going further, "Islamist movements are those
4 that pursue political power in order to promote Islam as the
5 dominant force in government and society."

6 A. I would qualify that in saying the agenda can be to
7 establish either political or social movements. In other
8 words, some Islamist movements simply focus on change from
9 below socially, not necessarily sort of politically. But in
10 general the statement is not offensive. I mean, it is okay.

11 Q. But it also would be a commitment to the application of
12 sharia, Islamic law.

13 A. No, not necessarily. But it might well be to some sort
14 of implementation of sharia, yes.

15 Q. Now, Hamas is an Islamist organization. Correct?

16 A. Yes.

17 Q. And it by its own words is committed to the establishment
18 of an Islamic state which is governed by sharia law.

19 A. Correct.

20 Q. And when they say sharia law, what does that mean?

21 A. When people -- I have to contextualize it in what does it
22 mean to talk about sharia law, and then I can say specifically
23 what Hamas may or may not be talking about.

24 When people want to implement sharia law -- We, for
25 example, discover in the Gallup poll of Muslims in 35

1 countries that majorities of Muslims want sharia as a source
2 of law. What that can mean for people is that they want their
3 society and their law to be -- not to be in conflict with,
4 let's say, Islamic principles and values. That is one
5 understanding.

6 Another understanding would be that people want to
7 implement a set of laws that were developed centuries ago,
8 quite a few centuries ago, let's say from the 7th to the 10th
9 century, and substantially reimplement many of those laws. So
10 it can mean a number of things.

11 Q. What -- In terms of sharia law, would it regulate in
12 terms of how women could dress?

13 A. Not necessarily. I mean, it might regulate it in terms
14 of saying modesty, but not specifically regulate. For some it
15 would. It might be that it would require that Muslim women to
16 cover their head, wear what is called the hijab.

17 Q. And as far as alcohol, the consumption of alcohol?

18 A. In general one would say that it would be banned for
19 Muslims to drink.

20 Q. And what about forms of criminal punishment or punishment
21 for crimes? Would those be according to the Quran?

22 A. Usually when you say sharia law, you can't simply equate
23 it with the Quran. So if you want, I can answer -- It is hard
24 for me to answer because there are things in sharia law that
25 aren't in the Quran.

1 Q. What countries do have sharia law?

2 A. A fair number of countries, several say that sharia is a
3 major source of law. Saudi Arabia will be one of those, Iran,
4 Sudan, and also to a certain extent Pakistan. The Taliban's
5 Afghanistan used to be, but that is not the case now.
6 However, what they meant or understood by it could vary
7 considerably. In general, the idea of banning alcohol, yes,
8 but then it really varies beyond that.

9 Other Muslim countries will simply have a statement that
10 says something like sharia is a source of law. In Egypt they
11 say it is the source of law when in fact it is not.

12 Q. You were asked about Yousef Qaradawi and his issuance of
13 Fatwas. And just from your testimony, what is a Fatwa?

14 A. A Fatwa is a legal opinion given by a recognized expert a
15 mufti, and it is not binding. That is, it is a kind of -- you
16 get different authorities. It would be the equivalent in the
17 American legal system of going to a legal expert and then
18 getting that opinion and presenting it, you know, before the
19 court.

20 In this case you can have several religious leaders who
21 will give Fatwas. The authority of the Fatwa is based on how
22 authoritative people view the person as well as their
23 argumentation. And you can have conflicting Fatwas. I
24 testified on suicide bombing. And therefore, for example,
25 Muslims could choose whether or not, or would choose whether

1 or not to follow the Fatwa of this person, this legal expert,
2 versus that legal expert.

3 Q. You testified that Yousef Qaradawi had given or issued a
4 Fatwa approving of suicide bombings in Israel. Is that
5 correct?

6 A. Correct.

7 Q. You also said that he had issued some kind of Fatwa that
8 authorized Muslims in the American military to kill the enemy
9 or their adversary?

10 A. Right. In the American military that were going into
11 Afghanistan, that, in other words, if American Muslims went in
12 and they engaged let's say the Taliban, that it was legitimate
13 to kill.

14 Q. Didn't he also issue a Fatwa saying that it was
15 legitimate for suicide bombers to attack the American military
16 in Iraq?

17 A. Yes. He regards Iraq as under occupation.

18 Q. You -- In your testimony about the Muslim Brotherhood,
19 you said that you were asked is it a violent organization, and
20 I believe you said that parts of it were violent or used
21 violence in the past.

22 A. I said that in -- For example, in Jordan, no violence; in
23 Egypt for the last 30 years they participate within the
24 system. In the Sudan I noted that, depending on what point in
25 history, you had had some violence--that is, where you had a

1 confrontation between the regime and some of the members of
2 the Muslim Brotherhood. On the other hand, in the Sudan
3 leaders of the Muslim Brotherhood have, for example, been in
4 the parliament and also the Attorney General of the
5 government. In the past, not today. They are not a
6 significant player in government.

7 Q. Well, are there members of the Muslim Brotherhood who
8 have gone on to become violent extremists?

9 A. Yes.

10 Q. For example?

11 A. Abdullah Azzam, who was--he is dead and that is why I am
12 using in the past tense here--a Palestinian who --

13 MS. HOLLANDER: Your Honor, may we approach?

14 THE COURT: Come on up.

15 (The following was had outside the hearing of the
16 jury.)

17 MS. HOLLANDER: I realize this is my witness, but I
18 don't think he knows that we have not been in this court
19 talking about what Azzam did and Al-Qaeda and bin Laden, and
20 he just doesn't know that.

21 MR. JACKS: Your Honor, she is the one that brought
22 out that -- endeavored to bring out that the Muslim
23 Brotherhood is not a violent organization.

24 MS. HOLLANDER: I mean, I can't instruct my witness,
25 but he doesn't know that we -- I mean, obviously this is not

1 an area that we have gone into. So maybe Mr. Jacks can simply
2 ask him the question. Otherwise I need to instruct the
3 witness that this is something that in this particular case we
4 are not talking about, because he doesn't know that.

5 MR. JACKS: I think they have opened the door to the
6 fact that bin Laden is a member of the Muslim Brotherhood,
7 Ayman Zawahiri, his deputy, is a member of the Muslim
8 Brotherhood, the Blind Sheikh is a member of the Muslim
9 Brotherhood.

10 THE COURT: Who is that?

11 MR. JACKS: Omar Abdel-Rahman, who was convicted in
12 New York for being a part of this plot to blow up these
13 monuments. He is called the Blind Sheikh. And he is an
14 Egyptian, but you know, I mean, these are members of the
15 Muslim Brotherhood that they clearly have undertaken violent
16 activities. So to just leave the impression that the Muslim
17 Brotherhood is not a violent organization is misleading.

18 MR. DRATEL: Your Honor, he has already got that
19 answer that some of them become extremists, and we go further
20 then we get into the area that we have been trying to avoid.

21 THE COURT: I still don't want to go into bin
22 Laden or Al-Qaeda.

23 MR. JACKS: Then they shouldn't have gone into this.

24 THE COURT: I know. Maybe they shouldn't, but I am
25 not going to let you go into bin Laden or Al-Qaeda. You have

1 got that part. You can get into some other specifics, and
2 maybe that is the way to do it, without -- because I don't
3 want him to mention bin Laden or Al-Qeada.

4 MR. DRATEL: He shouldn't go into al-Zawahiri either
5 because he is Al-Qeada also.

6 THE COURT: If you want to ask if somebody did such
7 and such to violence, that is fine, without mentioning
8 Al-Qeada. But if you mention bin Laden, that is automatic.

9 MS. HOLLANDER: The witness doesn't know, and so he
10 is asking him questions that are going to lead him there and
11 he is not going to know.

12 MR. JACKS: Because he is going to answer, you
13 know --

14 MS. HOLLANDER: He is going to answer about --

15 MR. DRATEL: He has already talked about Azzam, and
16 that goes right down up that road.

17 THE COURT: He is Al-Qeada?

18 MR. JACKS: No.

19 MR. DRATEL: No. What Azzam was, Azzam was bin
20 Laden's mentor from Al-Qeada, and the organization that Azzam
21 started in Afghanistan to process Mujahideen into Afghanistan
22 to fight the Soviets, and that organization ultimately evolved
23 into Al-Qeada. It gets very complicated in terms of Azzam
24 being killed by people and the organization shifting, but the
25 point being this goes right down that road.

1 MS. HOLLANDER: And unless I can have an opportunity
2 to warn the witness not to talk about it, then otherwise we
3 are going to go into it.

4 MR. JACKS: They are going to be able to leave the
5 impression that the Muslim Brotherhood is a non-violent --

6 MS. HOLLANDER: No, he already said that.

7 THE COURT: You can bring out examples. I just
8 don't want to get into bin Laden or Al-Qeada. If there is
9 other examples -- You mentioned one and maybe another one.

10 MR. DRATEL: The Palestinian Islamic Jihad, that is
11 a perfect example. But it is already in the case it is about
12 Palestine. It is an example. They are also involved with the
13 Muslim Brotherhood.

14 MS. HOLLANDER: He also said there are Muslim
15 brothers who become violent. He said it. I think we already
16 have the answer. He said it. He specifically said yes there
17 are some who become violent, and then he mentioned Azzam.

18 MR. JACKS: Khalid Sheikh Mohammed, he is Muslim
19 Brotherhood.

20 MS. HOLLANDER: There we go right into 9/11.

21 MR. JACKS: They shouldn't have brought it up then.

22 THE COURT: I still don't want to go into it.

23 MR. JACKS: I know.

24 MR. DRATEL: He is Al-Qeada. He is 9/11.

25 MR. JACKS: He is Muslim Brotherhood.

1 MS. HOLLANDER: He said that there are some that
2 become violent, and we would ask that he just move onto
3 something else, otherwise I am going to have to ask for a
4 recess and just advise the witness that he can't answer
5 anything about Al-Qeada and bin Laden, because he doesn't
6 know.

7 THE COURT: I just wish you had told him that. If
8 you were going to open it up --

9 MS. HOLLANDER: Well --

10 THE COURT: But you did go into it. That is why
11 they are entitled to go into it. But I don't want to go into
12 bin Laden.

13 MR. DRATEL: They should do Palestinian Islamic
14 Jihad. It is an easy one.

15 THE COURT: Well, I just don't want to mention those
16 two things. So just ask your question where you don't go into
17 that.

18 MR. DRATEL: I also ask he not pursue Azzam any
19 further, because that is going to go further --

20 THE COURT: I don't know what all is there. Just
21 ask your questions.

22 MR. DRATEL: He already answered Azzam.

23 THE COURT: Don't ask questions that you know are
24 going to lead you to Al-Qeada or bin Laden.

25 (The following was had in the presence and hearing

1 of the jury.)

2 Q. (BY MR. JACKS) Let me ask the question this way, Doctor
3 Esposito. There are members of the Muslim Brotherhood that
4 have -- And I am just asking for a yes or no answer. There
5 are members of the Muslim Brotherhood that have engaged in
6 violent acts, acts of terrorism. Is that correct?

7 A. Yes.

8 Q. You testified on direct examination regarding the Muslim
9 Brotherhood and its branches or organizations. Just to lay or
10 to see if we agree on certain parts, it is an organization
11 that was founded in Egypt. Correct?

12 A. Correct.

13 Q. And is it an international organization?

14 A. The Muslim Brotherhood exists in a number of countries in
15 different parts of the world; but yeah, that is what I would
16 say, to be specific.

17 Q. And it was your testimony that -- Is there a main leader
18 of the international Muslim Brotherhood?

19 A. No, not to my knowledge.

20 Q. And you are an expert on the Muslim Brotherhood, as you
21 have testified. Correct?

22 A. Correct.

23 Q. And so the leader of the Muslim Brotherhood -- Strike
24 that, please. Does the Muslim Brotherhood organization have
25 an international leadership?

1 A. Not in the sense of a kind of central office, central
2 command or leader. You have heads of country, Muslim
3 Brotherhoods in different countries. And then they will meet
4 from time to time in a broader sort of council, but it is not
5 a centrally as it were centrally organized top down sort of
6 organization.

7 Q. So the -- Let me ask this question first. What titles go
8 with the leaders? What titles do the leaders of the Muslim
9 Brotherhood operate?

10 A. The usual title for the leader in a specific country will
11 be the guide, and then within the organization, within a
12 country you will then have a leadership that in effect is seen
13 as belonging to a Shura Council. Shura Council is just a
14 generic term. It is even used by, for example, parliaments in
15 the Muslim world. It means a consultative body or council.

16 Q. And the term guide, it is G-U-I-D-E?

17 A. G-U-I-D-E, yeah.

18 Q. Is that a person?

19 A. Yes, it is an individual. You have had a variety of
20 individuals--Al-Hudibi, and others.

21 Q. And what is the Arabic term that is used to describe the
22 guide?

23 A. I mean, it depends on the country. In some cases it will
24 be something like al-mudir, it can be the director. I mean,
25 it varies in terms of the way the person will be referred to.

1 But it is usually not guide. I mean, it is guide, but it is
2 like the guide, meaning the head of the Brotherhood in that
3 specific country.

4 Q. And what is the Masul?

5 A. Could you --

6 Q. Either M-A-S-U-L or M-A-S-O-U-L?

7 A. The Masul?

8 Q. Uh-huh.

9 A. As in -- Well, Masul can be seen as a subordinate sort of
10 -- you know, a position to the guide, but it is not -- Yeah, I
11 mean, continue.

12 Q. Did I use that word properly--Masul? Is there a longer
13 term?

14 A. No. When you said the Masul, it just sort of threw me
15 off, but go ahead.

16 MR. JACKS: Mr. Lewis, could you bring up Elbarasse
17 Search No. 5, please?

18 Q. (BY MR. JACKS) Doctor Esposito, I am going to show you,
19 on the screen there a document that has been admitted, and it
20 is a document that was originally in Arabic, and this is the
21 first page of it, and I believe it consists of seven pages in
22 Arabic.

23 MR. JACKS: Mr. Lewis, if you would just scroll
24 through those seven pages.

25 Q. (BY MR. JACKS) And this is the first page which would be

1 the translation of the cover. And it bears the title "Islamic
2 Action for Palestine, an internal memo, October 1992."

3 MR. JACKS: And Mr. Lewis, if you would, go to the
4 next page. This would be page 9 of the exhibit. And if you
5 would, just for the benefit of Doctor Esposito, the first page
6 is entitled "introduction."

7 Q. (BY MR. JACKS) And it provides historical information,
8 and the reference to the word Ikhwan, I-K-H-W-A-N?

9 A. Ikhwan, yeah.

10 Q. Is that the brotherhood?

11 A. It is brotherhood or brothers, yeah.

12 Q. Muslim Brotherhood, is it a term that --

13 A. In this context it would, yeah.

14 Q. Okay. It is a proper term, I guess, or formal term?

15 A. Yeah.

16 Q. And it talks about --

17 MR. JACKS: If you will zoom back out, Mr. Lewis,
18 and then go to the last paragraph.

19 Q. (BY MR. JACKS) It talks about the -- It is talking about
20 Palestine and it says, "The first characteristic is the fact
21 that Palestine is a cause with a special Islamic status, as it
22 has the al-Aqsa mosque and it has the honorable rock." That
23 is the Dome of the Rock?

24 A. Correct.

25 Q. And that is a separate building on the same complex of

1 land --

2 A. Exactly.

3 Q. -- in the old city of Jerusalem. Correct?

4 A. Yes, correct.

5 Q. And in fact, one of the walls for the al-Aqsa mosque in
6 fact is the Western Wall or the Wailing Wall for the Jewish
7 quarter of the old city. Correct?

8 A. Correct.

9 Q. So they are immediately adjacent to one another.

10 A. Correct.

11 Q. And that is a -- The Western Wall is a significant site
12 for Jews.

13 A. Yes, absolutely.

14 MR. JACKS: And if you will go to the next page.

15 If you would, Mr. Lewis enlarge the top paragraph on that
16 page.

17 Q. (BY MR. JACKS) And it says -- It talks about the second
18 characteristic about the importance of Palestine, and if I
19 may, just reading that, and you can read along with me, if you
20 would, "The second characteristic comes from the fact that the
21 struggle is with the Jews who do not constitute a danger to
22 Palestine alone but a danger to Arabs and Muslims in their
23 homelands, resources, religion, traditions, influence, and
24 political entity. Due to the Jewish influence in different
25 global nations, especially America and Europe, the struggle in

1 Palestine has a degree of entanglement and complexity or
2 junctions and contradictions between international politics
3 like no other cause in the world."

4 Does it seem to indicate that the difficulty with the
5 writer of this document, as he sees it, is not just the state
6 of Israel, but with Jews elsewhere in the world?

7 A. What it indicates, as I read it, is that the writer is
8 saying that there are Jews in America and Europe who in fact
9 have an influence on, for example, policy, media, et cetera,
10 that has a direct influence on the Palestinian/Israeli issue,
11 yes.

12 MR. JACKS: If you could scroll down or zoom out,
13 Mr. Lewis, to the paragraph that begins "These two
14 characteristics."

15 Q. (BY MR. JACKS) And it says, "These two characteristics
16 make the cause of Palestine a unique cause which requires a
17 unique method and means to manage the struggle as well. This
18 is what the Islamic Movement-the Muslim Brotherhood-has
19 realized." So does that equate the Islamic Movement to the
20 Muslim Brotherhood in that sentence?

21 A. Yes. Yeah, it is very clear there.

22 MR. JACKS: If you would go to the paragraph "The
23 years after their march," Mr. Lewis.

24 Q. (BY MR. JACKS) And then it talks about the sentence,
25 "The Muslim Brotherhood in Palestine have realized that there

1 is no escape" -- And this document, to go back, was dated
2 October of 1992. Do you recall that?

3 A. I read documents from '91 and '92, but I don't
4 particularly.

5 MR. JACKS: Mr. Lewis, can you go back to what would
6 be page 8 of the exhibit?

7 Q. (BY MR. JACKS) And the date there shows October '92?

8 A. Right.

9 MR. JACKS: Now if you would go back to page 10.

10 Q. (BY MR. JACKS) And this talks about the action or the
11 work of the Muslim Brotherhood. It talks about the Muslim
12 Brotherhood in Palestine, Muslim Brotherhood in Jordan, and it
13 talks about -- It says, "The Muslim Brotherhood in Palestine
14 have realized that there is no escape the unity merger between
15 the two branches of the Muslim Brotherhood in Jordan and
16 Palestine. And this was in the beginning of 1978 after the
17 leadership of the Movement" -- Would that seem to refer to the
18 Muslim Brotherhood?

19 A. Yes.

20 Q. The worldwide movement or the overall movement?

21 A. I would say the overall, yeah.

22 Q. "...then realized that action for Palestine requires the
23 unity of the Muslim nation and that this unity must be
24 preceded by the unity of Islamic action. Thus came the first
25 initiative which was the foundation of the Muslim Brotherhood

1 in the Shamm Countries." What are the Shamm Countries?

2 A. The eastern countries. I mean, it is a generic term for
3 eastern countries in that region.

4 Q. Eastern Mediterranean?

5 A. Yeah, eastern as sort of Middle East.

6 Q. Would it be like Lebanon, Syria, those countries?

7 A. Yeah, it could be. You don't really have a strong Ikhwan
8 in Lebanon, but that geographic area.

9 Q. Well, in your experience what are they referring to when
10 they say -- What geographic area when they say the Muslim
11 Brotherhood in the Shamm Countries --

12 A. Well, I mean, if you were talking about the Muslim
13 Brotherhood in the Shamm Countries, one would be talking about
14 the Muslim Brotherhoods that exist or are to be created in the
15 Arab world and what we often refer to as possibly the Middle
16 East, which would mean it would go beyond the Arab world; in
17 other words, you know, countries that are not Arabic speaking,
18 but are in that area that we call the Middle East.

19 Q. What does shamm translate to?

20 A. It is the equivalent talking about eastern.

21 Q. And would that be indicative of the eastern part of the
22 Mediterranean world or east of the Mediterranean Sea?

23 A. You can say the eastern part of the Mediterranean world.
24 I just want to make sure that we are not talking about Greece.
25 It would be Arab and Muslim territories, as it were.

1 Q. All right. And then it talks about --

2 MR. JACKS: Mr. Lewis, if you could zoom out.

3 Q. (BY MR. JACKS) It has a Section A talking about the
4 Palestine section. And it says, "At the end of the '70s, the
5 Shamm Countries Movement opened a new section which was called
6 the Palestine Section to oversee the affairs of the Ikhwan."
7 That would be the brotherhood?

8 A. Correct.

9 Q. "...inside the occupied territories." Correct?

10 A. Correct.

11 Q. "And in the beginning of the '80s, the Islamic Action for
12 Palestine experienced distinguished leaps, and at the inside
13 level groups and apparatuses were formed to confront the
14 Zionist enemy, and they carried the different names then, such
15 as the Palestinian Mujahideen." And that would be consistent
16 with that interview of Sheikh Yassin?

17 A. Yes.

18 Q. The military arm?

19 A. Wing; militia.

20 Q. And it says, "At the outside level"--which presumably
21 means outside the territories--"a number of associations,
22 Islamic youth, and student unions were formed to ally the
23 masses in order to render the Palestinian cause victorious.
24 Therefore, the Islamic Association for Palestine Students in
25 Kuwait, the Islamic Association for Palestinian Youths in

1 Britain, the Islamic Association for Palestine in North
2 America, and all these other groups with were founded." Is
3 that what it says?

4 A. Correct.

5 Q. And then it goes on to talk about the Palestine
6 Conference, and it says, "In October 1983, the first
7 conference for Palestine at the Shamm Countries level was
8 organized. Based on the recommendations of this conference
9 and the feelings of the Ikhwan in the executive office of the
10 importance of paying a special attention to Palestinian
11 action, a decision was made to broaden the powers of the
12 Palestine Section and to reorganize it to be called the
13 General Apparatus for Palestine," in quotes, "in the fall of
14 1985."

15 Now, in that sentence it talks about the feelings of the
16 Ikhwan in the executive office. Do you know who that is
17 referring to?

18 A. It would be leadership of different national Ikhwan
19 movements, and that would then constitute a kind of Executive
20 Shura Council or consultative council I was talking about. So
21 it would be, you know -- In other words, you are talking about
22 the leadership of these sort of main Muslim Brotherhood
23 groups.

24 Q. Well, it says the executive office, singular.

25 A. I didn't get that.

1 Q. It says, "the feelings of the Ikhwan in the executive
2 office," singular. It is not plural.

3 A. I wouldn't know -- Without a more of a context, I
4 wouldn't know what specifically is there.

5 Q. All right. Then the next paragraph, which is C, talks
6 about -- it is titled "The Central Committee for associations
7 and Palestinian student unions." And it talks about something
8 happening in 1983, the Movement. And again would that be
9 consistent with the Muslim Brotherhood movement?

10 A. In this context it would seem to be, yes.

11 Q. Okay. And it talks about, "A Shura Council was formed
12 for this frame, and an executive committee to oversee its
13 financial, administrative, and planning affairs." And you
14 said that Shura Council is kind of a term that can be applied
15 to any type of organizational structure?

16 A. Yeah.

17 Q. So Shura is just an executive, or like a board of
18 directors or a committee?

19 A. It would be like for here, for example, where it talks
20 about all these Palestinian association, juniors and
21 coordinates -- Well, if you organized a Shura Council of
22 these, you would be talking about a council of representatives
23 of these groups that then would represent -- these people
24 would represent these groups and would meet to address issues.

25 Q. All right. And then it says, "This formation of a Shura

1 Council and an executive committee," the last sentence in that
2 paragraph says, "This was done following an agreement and a
3 blessing from the Muslim Brotherhood in the Shamm Countries,
4 and the Guidance Office of the International Movement."

5 What is the Guidance Office of the International
6 Movement?

7 A. I would see that as reflecting, if you look at the first
8 -- the words just before that, the different Muslim
9 Brotherhoods in the countries, and the leadership from those
10 countries would have an organizational center that would be
11 the guidance office for the international movement. But it is
12 not clear whether one is talking just about a group of people
13 who give guidance, or whether or not one is talking about a
14 single individual. It is no -- It is vague.

15 Q. Well, it talks about two organizations in that sentence.
16 The Muslim Brotherhood in the Shamm Countries, that is one.

17 A. Those are multiple organizations, yeah.

18 Q. All right. And whether they operate in one office or
19 separate offices in each country, it is not clear from that
20 term.

21 A. Right.

22 Q. And then it talks about the Guidance Office of the
23 International Movement. And I am sorry. Maybe I
24 misunderstood. But what was your answer in terms of who that
25 is referring to?

1 A. Well, I think, you know -- Again, in this context what
2 guidance office can mean is that you then have an office that
3 coordinates these different groups and activities. It
4 coordinates and represents the leadership of the different
5 Muslim Brotherhood groups. It also would have under its wing
6 the Shura Council that is in line three that has
7 representatives of these different associations to address
8 issues that deal with Palestine, as I see it in this context;
9 just specifically dealing with Palestine.

10 Q. Doesn't it refer to the Guidance Office of the
11 International Movement of the Muslim Brotherhood?

12 A. It says the Guidance Office of the International
13 Movement.

14 Q. And don't you interpret that to be referring to the
15 Muslim Brotherhood?

16 A. Generically, yes. It is all Muslim Brotherhood.

17 Q. Where would that be?

18 A. It depends on you know, where it is located in a
19 particular time. In general, Egypt has been a center, but
20 that guidance office at different points of time could be in a
21 number of different places. There are a lot of
22 different -- In this language you would have -- Depending on
23 the project, you would have different Shura Councils, multiple
24 Shura Councils and guidance, and then an organizing committee
25 above it that would be called an executive committee or

1 guidance committee.

2 Q. But does it not indicate, though, that there is an
3 international Muslim Brotherhood movement which has a guidance
4 office?

5 A. The movement is clearly -- many movements are clearly
6 will international, and it would indicate that there is an
7 entity where leaders from different Muslim Brotherhood groups
8 meet and plug into.

9 That is different from saying that, for example, it is a
10 hierarchical, central, organized institution, you know, with a
11 pecking order at the top that can tell people in different
12 countries what they absolutely have to do. That wouldn't be
13 the case.

14 Q. That is your --

15 A. The Jordanian --

16 Q. -- your view?

17 A. Well, if you look at history. The Sudanese Muslim
18 Brotherhood at a number of critical points has felt very free
19 to ignore what the Egyptian Muslim Brotherhood has said. The
20 Jordanian Muslim Brotherhood has functioned in a very
21 different way than other Muslim Brotherhoods have functioned.
22 They usually are led by local leaders responding to local
23 conditions.

24 Q. Let's go to the next paragraph. It is labeled paragraph
25 D, "Palestine committees in the countries." It reads, "With

1 the growth of the blessed Intifada and the spread of the
2 spirit of jihad amidst the children of Palestine and the
3 nation, it became incumbent upon the remainder of the Ikhwan
4 branches to play a role in attributing this Intifada and this
5 Islamic action to Palestine." And again, Ikhwan branches
6 refers to branches of the Muslim Brotherhood.

7 A. Correct.

8 Q. And then the sentence after that reads, "Therefore, a
9 resolution was issued by the Guidance Office and the Shura
10 Council of the International Movement to form, 'Palestine
11 Committees' in all the Arab, the Islamic, and the Western
12 nations whose job is to make the Palestinian cause victorious
13 and to support it with what it needs of media, money, men, and
14 all of that."

15 What is referred to when it talks about a resolution
16 being issued by the Guidance Office and the Shura Council of
17 the International Movement?

18 A. It would -- If I were imagining how that process came
19 about, you would have a meeting of representatives of the
20 various Muslim Brotherhoods who would then address issues like
21 the formation of whether or not there should be a formation of
22 Palestinian Committees, or whether or not other things should
23 take place.

24 Q. And it is your testimony that the International Movement
25 of the Muslim Brotherhood does not control or have any

1 responsibility or control over these other branches of the
2 Muslim Brotherhood.

3 A. Correct. The most that you have is influence, but they
4 are national groupings. So the key word here, again, in terms
5 of the nature of it is the term Shura which means
6 consultation, a consultative committee. So it is really the
7 group in a consultative committee that would consult and then
8 make a determination like a kind of a joint determination that
9 Palestine Committees, for example, should be created.

10 Q. The next paragraph starts essentially a new topic. The
11 first one was numbered 2, "The foundation of Islamic Action
12 for Palestine," and then it had four parts--A, B, C, and D.
13 Now, the next part is 3, and it says, "A: The Islamic
14 Resistance Movement." And it talks about "the increase of the
15 Intifada, the advance of the Islamic action inside and outside
16 Palestine, the Islamic Resistance Movement, Hamas" -- And by
17 the way, the term Islamic Resistance Movement, that is Hamas.
18 Correct?

19 A. In this context, definitely.

20 Q. All right. "...and provided through its activities in
21 resisting the Zionist occupation a lot of sacrifices from
22 martyrs, detainees, wounded, injured, fugitives, and
23 deportees, and it was able to prove that it is an original and
24 an effective movement in leading the Palestinian people. This
25 movement, which was bred in the bosom of the Mother Movement,

1 the Muslim Brotherhood, restored hope and life to the Muslim
2 nation and the notion that the flair of jihad has not died out
3 and that the banner of Islamic Jihad is still raised."

4 So this writer is saying or confirming, is he not, that
5 Hamas is and bred out of the Muslim Brotherhood movement?

6 A. Oh, yeah. That is a widely accepted fact.

7 Q. Going to the next page, paragraph B talks about the
8 organizational structure of the Movement, and it talks about
9 the organizational structure consisting of two organizations.
10 And again we are talking about Hamas because we are still
11 under the A and B part.

12 A. Right.

13 Q. But it says, "1: A consulting council, which will
14 include 50 members from the inside and the outside,
15 representatives of the International Office of Guidance."
16 There that term is again. And does that refer to the
17 International Office of the Muslim Brotherhood?

18 A. Yeah, it says the International Office of Guidance and
19 Shura.

20 Q. All right. And is that in Egypt? Is that where it is
21 located?

22 A. Historically that has been the home of the Brotherhood
23 but that can vary. But in general it has historically been
24 situated in Egypt, but sometimes it could be situated outside
25 of Egypt. Meetings can be held outside of Egypt.

1 Q. But the term international office, wouldn't you agree, it
2 implies that it has a scope greater than just the geographical
3 boundaries of Egypt?

4 A. Yeah. We have been saying that all along. Yeah, I
5 wouldn't --

6 Q. So it has control, influence --

7 A. No. What it is saying, as I read it, is it consists of
8 members who represent the different movements and that they
9 are part of a broader international movement. That is the way
10 I would prefer to put it in my own words.

11 Q. It then talks about the Executive Committee, and it talks
12 about how many members there will be and what fields they will
13 be experienced in. And it says, "And the Movement, Hamas, is
14 represented in several of the leadership councils which are
15 affiliated with the Guidance Office." And then it talks about
16 the Shura Office of the International Movement. There is that
17 term again, "...the International Movement, the Guidance
18 Office, the Guidance Office for the Shamm Countries, the
19 Executive Office for the Shamm Countries," and then it says,
20 "The Movement submits to these entities"--assuming the
21 entities above--"reports, studies, plans, bylaws, and work
22 projects for approval and signature or modifications and
23 guidance."

24 What does that sentence indicate to you about the degree
25 of control that is shown by the International Office?

1 A. What it would show is that the Islamic Resistance
2 Movement, or Hamas, because my presumption here in this
3 context is that the Movement submits would be Hamas, that it
4 is -- that it provides reports to this group of Muslim
5 Brotherhood organizations--so you have got the Movement and
6 then you have got the organizations--because these are
7 organizations that they are seeking support from, or -- Yeah.

8 Q. They are not even only seeking support. They are seeking
9 approval and signatures or modifications and guidance. So
10 they are seeking approval. That is what it says. Correct?

11 A. They don't use -- I mean, basically what you are saying
12 is that they are going to people who provide support for them.
13 They are going to people who would serve as advisors, you
14 know, would advise them on what to do, yes.

15 Q. You were asked about a document that has been admitted.
16 It is -- Elbarasse Search Warrant No. 1 is the exhibit.

17 MR. JACKS: Can you display that, please, Mr. Lewis?
18 And let me ask you if you can go to page 16, which I think is
19 the first page of the English translation.

20 MS. HOLLANDER: Excuse me, Mr. Jacks. I may be
21 wrong again, but I don't remember going into this one.

22 MR. JACKS: One moment, Your Honor.

23 THE COURT: All right.

24 MR. JACKS: I am sorry. It is Elbarasse Search
25 No. 3.

1 Q. (BY MR. JACKS) And do you recall being asked about this
2 document?

3 A. I would have to see a page after that maybe, because it
4 is a generic phrase "explanatory memorandum."

5 MR. JACKS: Go, if you would, Mr. Lewis, to -- Just
6 go to the next page for a moment.

7 Q. (BY MR. JACKS) Do you see the date at the top of this
8 page?

9 A. Yes, 1991.

10 Q. May 22nd, 1991?

11 A. Right.

12 Q. At the very top it talks about, I suppose under the
13 persons that are being -- to which this document is addressed,
14 it says, "The beloved brother, the general Masul." That was
15 the word I was asking about.

16 A. Yeah.

17 Q. What does that refer to?

18 A. In this context, director, leader.

19 Q. And --

20 A. And then the secretary of the Shura Council.

21 MR. JACKS: And if you would, Mr. Lewis, go to the
22 next page.

23 Q. (BY MR. JACKS) All right. And this is the document, the
24 subject, do you see at the top there, "A project for an
25 explanatory memorandum for the general strategic goal for the

1 group in North America"?

2 A. Yes.

3 Q. "And mentioned in the long term plan."

4 A. Yes.

5 Q. Do you know, or from reading this can you determine what
6 is meant by "the group in North America"?

7 A. It would be Muslim Brotherhood organizations within
8 America. In other words, you know, groups, Muslim Brotherhood
9 groups that might exist, for example, in different cities or
10 states.

11 Q. All right. And then -- So the subject is "a project for
12 the Muslim Brotherhood organizations in North America." Is
13 that a fair statement?

14 A. As I read the English here, yes.

15 Q. And it says, "The memorandum is derived from," and it
16 kind of goes into a historical background about the year 1987,
17 and then talks about the organizational conference which was
18 entitled "Enablement of Islam in North America, meaning
19 establishing an effective and a stable Islamic Movement led by
20 the Muslim Brotherhood which adopts Muslims' causes
21 domestically and globally, and which works to expand the
22 observant Muslim base, presents Islam as a civilization
23 alternative, and supports the global Islamic state wherever it
24 is."

25 What does the term "global Islamic state" refer to, in

1 your opinion?

2 A. A global -- Where Islam is to be found in, I would
3 imagine in this context, in government. That is where you
4 have Muslim governments.

5 Q. And then the second topic paragraph is "An introduction
6 to the explanatory memorandum," which is this document itself.
7 And it talks about the same things that were talked about in
8 the earlier paragraph.

9 MR. JACKS: And then if you will go to the next
10 page.

11 Q. (BY MR. JACKS) And let me ask you Doctor Esposito, have
12 you read this document all the way through?

13 A. Could you just blow this page up a little for me? I have
14 read sections of the document. I have read it through. I
15 haven't studied it. Do you know what I mean? I haven't done
16 a close analysis. I didn't have time.

17 Q. Well, it is 18 pages.

18 A. Yeah.

19 Q. So you said you have read it, but did you reach a
20 conclusion as to what it was talking about?

21 A. Well, in general I think it -- What it mirrors is a
22 document that talks about the fact that you have got Muslim
23 brothers who are in different parts of the United States, and
24 that they share common concerns, both about Muslims overseas
25 and here and Muslim causes overseas. And so they are

1 organizing to be supportive of those causes, much as an
2 analogous situation would be talking about a major Jewish
3 organization that sees itself as having both domestic and
4 global concerns about the community, its religion, its
5 identity, its lifestyle, and its issues in terms of what is
6 going on in other parts of the world that impact on
7 communities.

8 Q. All right. It talks about the concept of settlement, and
9 it defines it in the paragraph there No. 3 that "Islam and its
10 movement become a part of the homeland it lives in." Then it
11 talks about the process of settlement. Do you see that?

12 A. Yeah.

13 Q. Heading No. 4, which is underlined. And then it talks
14 about "Adopting the concept of settlement and understanding
15 its practical meanings."

16 Going to the next page, it talks about "Making a
17 fundamental shift in our thinking and mentality in order to
18 suit the challenges of the mission."

19 And then it goes below that to paragraph 3,
20 "Understanding the historical stages in which the Islamic
21 Ikhwani activism went through in this country."

22 And do you recall that talking about the history of the
23 Muslim Brotherhood in the United States?

24 A. Yeah.

25 Q. And it talks about "understanding the role of the Muslim

1 brother in North America," paragraph 4. Do you see that
2 heading in bold?

3 A. I see it.

4 Q. It says the, "The process of settlement is a
5 'civilization jihadist process' with all the word means. The
6 Ikhwan must understand that their work in America is a kind of
7 grand jihad in eliminating and destroying the Western
8 civilization from within, and sabotaging its miserable house
9 by their hands and the hands of the believers so that it is
10 eliminated and God's religion is made victorious over all
11 other religions. Without this level of understanding, we are
12 not up to this challenge and have not prepared ourselves for
13 jihad yet. It is a Muslim's destiny to perform jihad and work
14 wherever he is and wherever he lands until the final hour
15 comes, and there is no escape from that destiny except for
16 those who choose to slack. But would the slackers and the
17 Mujahideen be equal?"

18 And I believe you testified on direct examination that
19 when you read that, that that was, in your opinion, the words
20 of some radical or terrorist individual. Is that right?

21 A. No. I mean, because I know what I would say looking at
22 it now. I don't remember being asked about this particular
23 phrase. First of all, we have no idea who the author of this
24 is. Correct?

25 Q. Well, as a matter of fact we do. Let me direct your

1 attention to page 17 of the exhibit. And at the bottom do you
2 see the name of the author?

3 A. Yes, Mahmoud Akram.

4 Q. Mohammed Akram?

5 A. Mohammed. I am sorry.

6 Q. And I believe I asked you earlier, do you know who that
7 person is?

8 A. I said no.

9 Q. Okay. Did you ever come across him in your dealings with
10 the UASR?

11 A. No. You had asked me that.

12 Q. If you would, at the end of this document --

13 A. The page you have in front of me, is that what you are
14 talking about?

15 Q. No. I am sorry. I was getting ready to ask you another
16 question or direct the --

17 MR. JACKS: Mr. Lewis, would you go to what would be
18 page 28 of the exhibit?

19 Q. (BY MR. JACKS) Do you see, Doctor Esposito, the
20 breakdown of these different departments that the writer has
21 included in this memorandum?

22 A. Yes.

23 Q. The Movement Department, the Secretariat Department.

24 Have you seen that term the Secretariat Department before?

25 A. No. I mean, it is a common bureaucratic term, but no.

1 MR. JACKS: Would you go to the last page, Mr.
2 Lewis?

3 Q. (BY MR. JACKS) Doctor Esposito, there are a number of
4 organizations, actually 29 organizations listed on that
5 particular page. Is that correct?

6 A. Correct.

7 Q. And the writer at the top has written the words, "A list
8 of our organizations and the organizations of our friends,"
9 and in brackets, "Imagine if they all march according to one
10 plan." And there is ISNA, Muslim Students Association, North
11 American Islamic Trust, MAYA, the IAP, No. 22 the Occupied
12 Land Fund. You can see those organizations listed there.

13 A. Yeah.

14 Q. Okay. You were --

15 A. These are different organizations.

16 Q. I am sorry? I don't think there was a question pending.

17 A. Well, you read to me this "imagine if they all march
18 according to our plan." It said "our friends." So it is not
19 saying -- it is not just "our organizations." It is
20 "organizations of our friends." That is all I am saying.

21 Q. You were talking about economic jihad, and you said that
22 it could mean what? I will just let you explain it again.

23 A. Well, as Matt Levitt noted in quoting me, the term jihad
24 can refer to many different kinds of sort of
25 struggles--social, political, economic, religious. So if you

1 use the phrase economic jihad, it would just be a generic way
2 of talking about some economic projects you would have that
3 would be -- you know, that you have to put a lot of effort
4 into achieving. So it would be using the term jihad in a very
5 generic term, not in the sense of a militant militia term.

6 So it would be something economic. It would be a variety
7 of projects that one might have. It might be a fundraising,
8 it could be social service work, developing hospitals.

9 Q. And it could be resistance.

10 A. Yes.

11 Q. Forced resistance.

12 A. Yes. Support for resistance, yes.

13 MR. JACKS: Just one moment, Your Honor.

14 Mr. Lewis, are you able to play Mushtaha Search No. 9 at
15 this time?

16 (Whereupon, Mushtaha Search No. 9 was played, while
17 questions were propounded.)

18 MR. DRATEL: Your Honor, may we approach?

19 THE COURT: Yes.

20 (The following was had outside the hearing of the
21 jury.)

22 MR. DRATEL: This is just going to go back to Azzam.
23 He is going to try to get him to talk about Azzam and say
24 something about Al-Qaeda and bin Laden.

25 THE COURT: This has already been in and played?

1 MR. JACKS: Yes.

2 THE COURT: It has been played.

3 MR. DRATEL: But he asked him about Azzam.

4 THE COURT: He knows what to ask him.

5 MR. DRATEL: What if he answers on his own?

6 THE COURT: Hopefully he won't.

7 MR. DRATEL: Hopefully he won't, but that is a big
8 chance for something --

9 MS. HOLLANDER: This is something that has been
10 going on for hours.

11 MR. JACKS: I am not going to go into that.

12 THE COURT: I didn't think you would.

13 MS. MORENO: How much more did you have?

14 THE COURT: That is not your concern. I will worry
15 about the time.

16 (The following was had in the presence and hearing
17 of the jury.)

18 Q. (BY MR. JACKS) The individual that is shown on
19 that -- in that film, who is that?

20 A. Abdullah Azzam.

21 Q. Abdullah Azzam. And I take it you can see the graphic
22 there on the screen saying "Send your tax deductible donations
23 to Occupied Land Fund."

24 A. Yes.

25 Q. You can see that. Correct?

1 A. Yes.

2 Q. Okay. And then the caption says "jihad with the self."
3 Then it talks about "jihad with money." Right?

4 A. Correct.

5 MR. JACKS: Play Mushtaha Search No. 2 please.

6 THE WITNESS: Excuse me. Can I check on a matter of
7 procedure here. Am I able to take a note to myself while I am
8 watching this so I can remember a comment on something I have
9 seen?

10 THE COURT: A note to yourself?

11 THE WITNESS: Yeah, as I am sitting here.

12 THE COURT: For your own purposes?

13 THE WITNESS: Yeah, in case I see something here and
14 if I am asked so I will remember what I saw if I am asked
15 something about the video that I just saw.

16 THE COURT: You may do that.

17 Q. (BY MR. JACKS) This is Mushtaha Search No. 2 is the name
18 of this exhibit.

19 (Whereupon, Mushtaha Search No. 2 was played, while
20 questions were propounded.)

21 Q. (BY MR. JACKS) Doctor Esposito, you testified that
22 context is important in determining meanings. In that
23 context, would you agree that economic jihad is referring to
24 the support of violent jihad?

25 A. It seems -- Yes, in that context. And I imagine, since

1 you haven't told me the context of it, it looks like he was on
2 a fundraising trip for the Afghan war because he is talking
3 about Afghanistan there. Is this a fundraising trip that he
4 made to the States?

5 Q. Did you see where he was addressing the Palestinians?
6 Did you see that part?

7 A. Yeah. But the issue was, as I understand it, the Afghan
8 war.

9 MR. JACKS: Your Honor, I would move to strike that
10 last comment as non-responsive.

11 THE COURT: I will deny that request.

12 MR. JACKS: May I have a moment, Your Honor?

13 THE COURT: Yes.

14 Q. (BY MR. JACKS) Your answer that you volunteered was that
15 he was talking about the Afghan resistance?

16 A. It was more in the form of a question. I said from
17 looking at this tape, since I wasn't given the full context of
18 it, all I saw was a reference to Afghanistan at a certain
19 point, so I thought this was one of his fundraising trips
20 here.

21 Q. Well, did you see that he was talking about the
22 availability of weapons in Pakistan? Is that what you are
23 talking about?

24 A. Yes.

25 Q. But did you also see him praising Sheikh Yassin and

1 Darwish?

2 A. Yes.

3 Q. So he was talking about Palestinian issues, Palestinian
4 individuals. Is that correct?

5 A. He referred to Sheikh Yassin.

6 Q. Yes, and Darwish who is a Palestinian.

7 A. Then he referred to Pakistan and Afghanistan, yeah.

8 Q. Pakistan is a place where you could acquire weapons.

9 Isn't that correct?

10 A. Yes.

11 Q. Okay. Then he talked about the Intifada. The Intifada
12 refers not to Afghanistan but to Palestine. Correct?

13 A. Correct.

14 MR. JACKS: I pass the witness, Your Honor.

15 THE COURT: Ms. Hollander?

16 MS. HOLLANDER: May I have a few minutes?

17 THE COURT: Sure.

18 MS. HOLLANDER: Could we take our break now?

19 THE COURT: Let's take our break. We have been in
20 here for a while now. Let's take a 20-minute break.

21 (Whereupon, the jury left the courtroom.)

22 THE COURT: We will be in recess for 20 minutes.

23 (Brief Recess.)

24 THE COURT: Ms. Hollander?

25 MS. HOLLANDER: I have no redirect, Your Honor.

1 THE COURT: All right. Doctor Esposito, you may
2 step down. You are free to go.

3 Call your next witness.

4 MS. HOLLANDER: May we approach on a brief
5 scheduling matter?

6 THE COURT: Come on up.

7 (The following was had outside the hearing of the
8 Jury.)

9 MS. HOLLANDER: I have communicated with Mr. Cline,
10 and he is not -- There is no way he can be available so we
11 don't need to do this phone thing. The other thing is --

12 THE COURT: So we are not going to do the --

13 MS. HOLLANDER: Not the phone hook-up.

14 THE COURT: Gotcha.

15 MR. JONAS: We can have it in chambers, I guess.

16 MS. HOLLANDER: And you had offered to do it at 6:00
17 so he might be available so we were sure Doctor Esposito is
18 finished but since he is finished and Mr. Cline is not
19 available, certainly it is up to you but if you wanted to do
20 it earlier than 6:00.

21 THE COURT: I was going to work until about 5:30 I
22 was going to do that and take a little break and then go
23 upstairs. We will plan on working until 5:30. Who is going
24 to with questioning -- That is your witness.

25 MS. CADEDDU: Yes.

1 MS. HOLLANDER: Is it fine if we start a little
2 before 6:00.

3 MR. JONAS: We can do it now if you want we can go
4 any time.

5 THE COURT: We don't want to keep the jury waiting.

6 MS. HOLLANDER: justn't wanted to let you know that
7 so you didn't think we had to wait until 6:00.

8 THE COURT: All right.

9 (The following was had in the presence and hearing
10 of the jury.)

11 THE COURT: Ms. Cadeddu?

12 MS. CADEDDU: Yes, Your Honor. Thank you.

13 The Defense calls Dr. David McDonald.

14 (Whereupon, the oath was administered by the Court.)

15 DAVID McDONALD,

16 Testified on direct examination by Ms. Cadeddu as follows:

17 Q. Sir, can you introduce yourself to the jury and spell
18 your name for the court reporter, please?

19 A. David McDonald, M-C-D-O-N-A-L-D.

20 Q. And Doctor McDonald what is it you do for a living?

21 A. I am a professor of folklore and ethnomusicology,
22 anthropology, and near eastern language and cultures and at
23 Indiana university.

24 Q. Ethnomusicology is?

25 A. Ethnomusicology is the study of music as it relates to

1 culture and society. We study music in relation to a much
2 larger social processes, like race, ethnicity, nation, gender,
3 these kinds of things.

4 Q. And does ethnomusicology include only music or other
5 types of performance?

6 A. Ethnomusicology but also dance, drama, theater, cinema
7 popular culture, graffiti, literature, poetry. Basically any
8 cultural expression of a people is commonly studied by
9 ethnomusicologists.

10 Q. And as an ethnomusicologist what sort of -- What sort of
11 methodology do you use.

12 A. Ethnomusicology is a branch of cultural anthropology,
13 which means that we study people using what is called
14 ethnography or ethnographic methods, which involves
15 participant observation as well as archival research.

16 Participant observation means very simply that we travel
17 to the place that we are studying and we live among those
18 people, participating and observing in what they do in their
19 everyday lives.

20 Q. And is there a particular geographic area that you
21 specialize in?

22 A. Yes. I am a specialist in Israel/Palestine.

23 Q. How did you first get interested in this area?

24 A. Originally I was a professional jazz musician, if you can
25 believe that, and as an undergraduate I was a jazz saxophone

1 major, and all college kids are forced to take a world
2 civilizations class and I took one, and the professor happened
3 to be a historian of Egypt. And he found out I was a
4 musician, and he had an old tape of an Egyptian singer, a very
5 famous Egyptian singer, and he handed me the tape and said,
6 "You know, you might like this."

7 So I took it home and I listened to it, and it was one of
8 those life-changing moments for me as a musician. The music
9 spoke to me in ways that jazz hadn't yet. And it was kind of
10 like -- I always say to my students, it was kind of like
11 living your whole life eating peanut butter and jelly, and
12 then someone hands you a plate of sushi. You suddenly realize
13 that the world is much bigger than you thought it was, and
14 music is just not one thing.

15 So because of that I decided I wanted to become a Middle
16 Eastern studies minor. And upon graduating with a degree in
17 saxophone I enrolled in a graduate program in ethnomusicology
18 with the idea of studying music in the Middle East in
19 particular.

20 Q. And where was it that you enrolled in a graduate program?

21 A. University of Illinois, Urbana Champaign.

22 Q. What was your original specialization or your original
23 work when you first entered graduate school?

24 A. As a Master's student I did all of my research in Israel
25 actually. I wrote a Master's thesis on nationalism and music

1 in Israel, specifically talking about the ways in which the
2 Israeli government used music as a way of forging a national
3 identity among immigrants from all over the world.

4 When Israel was founded in 1948, it was bringing together
5 Jews from all over the world--Morocco, Iraq, even eastern
6 Europe, Latin America--and they had this complete nation full
7 of people who couldn't talk to each other because they were
8 all from different places around the world, so the Government
9 was kind of taxed with, "Well, How do we make them feel
10 Israelis rather than as Hungarians." Music was actually a
11 powerful way in which the Israeli government used or was able
12 to forge that national identity.

13 Q. And so if you could just slow down just a little bit.

14 A. I am sorry. I am a little bit nervous, but I will try.

15 Q. After you completed your Master's program, what did you
16 do next?

17 A. After studying Israeli popular music, which is ultimately
18 what my Master's thesis was about, I became fascinated with
19 the Israeli-Palestinian issue, and I wanted to study the other
20 side of the issue, and so for my Ph.D. course work and then
21 for my dissertation research I researched virtually the same
22 idea, same approach, except on the Palestinian side where I
23 studied the ways in which Palestinians use music as a way of
24 forging a national identity in various refugee populations in
25 Jordan and in the West Bank and then also in Israel.

1 Q. And let me just stop you there for a second and ask you
2 to explain to the jury what is required in order to get a
3 Ph.D., a doctoral degree?

4 A. Yeah. In order to get with a Ph.D. in the social
5 sciences, like anthropology, ethnomusicology it requires you
6 to take about three years of intensive graduate seminar course
7 work. Then you usually do about two years of field work,
8 living in the populations, collecting data, interviewing
9 people, talking to people. And then once you return back from
10 the field, it is usually a year or two of writing your
11 dissertation, which mine was about 450 pages. You can see --
12 It is like basically a book. And then you go before a panel
13 of superiors, professors, leaders in the field, and then you
14 have to defend that dissertation. And they sit there and try
15 and poke holes in it, and you try and defend it. And if you
16 pass, you are a doctor.

17 Q. Do you speak other languages other than English, which is
18 obviously your native language?

19 A. I am a Native English speaker. I also speak Arabic. And
20 in the course of my Master's field work, I also have a basic
21 knowledge of Hebrew.

22 Q. And where did you learn Arabic and what did you do to
23 learn it? Also what dialect do you speak?

24 A. Sure. As a graduate student I received several language
25 grants. Basically these are grants supported by the U.S.

1 government to fund graduate students to learn languages that
2 are of national importance, and both Hebrew and Arabic are
3 those languages.

4 So I received a grant to study Hebrew at the University
5 of Illinois, and I received three grants to study Arabic at
6 the University of Illinois. Ultimately I took four years of
7 Illinois course work in Arabic language at Illinois, and then
8 I did an intensive emersion program in Jordan in the summer of
9 2002. And then I also did two years field work where you are
10 basically speaking -- you are living in the language. You are
11 speaking the language every day on the streets with the
12 people. It became the language that I was living in at that
13 time. So basically that was ultimately where I learned the
14 language. And it is Palestinian dialect in particular that I
15 specialize in and understand the best.

16 Q. Could you tell us what area of research you initially
17 were exploring for your Ph.D., for your doctoral work?

18 A. Initially I had been told -- All the research I had read
19 had said that Palestinian weddings were the most important
20 kind of celebratory space where Palestinians felt the most
21 Palestinian. Right? They would go to these weddings, and in
22 those weddings they would hear their folkloric music and feel
23 Palestinian So I wanted to study, in particular, the
24 repertoire of wedding songs among Palestinians. And so I had
25 intended on hooking up with some wedding bands.

1 And the cool thing about ethnomusicology we actually play
2 the music with them. We learn the instruments, we learn the
3 rhythms, we learn the dances, and play with them. And I had
4 planned on playing in Palestinian weddings as a way of
5 learning about their history and their culture.

6 And when I arrived in the summer of 2002, I found a very
7 different situation than I was expecting, which is kind of
8 normal. When I arrived in May of 2002, this was just in the
9 aftermath of what was then called Operation Defensive Shield,
10 which was a moment where Israel reoccupied the West Bank. And
11 during that time, it was a moment of extreme social stress,
12 extreme cultural stress. The people were under curfew 24
13 hours a day, the people's movements were limited, the things
14 they were allowed to do were curtailed. It was a very fearful
15 moment. And because of that, weddings just weren't happening.
16 There were no weddings for me to study.

17 Q. So what did you end up studying?

18 A. Yeah. My research -- You have to kind of go back to the
19 drawing board. And my theory was, "okay. We can't do the
20 project that we want to do." However, there was an outpouring
21 of musical output, politically-inspired music that basically
22 was brought about because of the occupation and brought about
23 because of Operation Defensive Shield. So I decided, well,
24 this is an opportunity to study the relationship between music
25 and politics, the relationship between the Palestinian drive

1 for a national homeland and the music they use to communicate
2 that need for a national homeland.

3 Q. And did you -- Can you explain what a research fellowship
4 is, and talk about whether you had one or more?

5 A. Well, you know, to go and live in a foreign country for a
6 couple of years isn't cheap, because you can't exactly get a
7 job once you are there. So researchers are dependent upon
8 research fellowships in order to do research like this.

9 As a graduate student, I received several fellowships,
10 all of them from the U.S. State Department, Department of
11 Education and the Department of State, to do this research.
12 The main funding source I had to do this research was called a
13 Fulbright-Hays Fellowship. It is a very prestigious
14 fellowship given out by the U.S. Government to graduate
15 students in the social sciences. The year that I got it there
16 were only 120 recipients and well over 5,000 applicants.

17 I also received another Fulbright award for the same
18 research project. And my advisor kept telling me I should go
19 buy a lotto ticket that day because nobody wins both, but I
20 was lucky enough to do that.

21 In addition, I had fellowships from the American Centers
22 for Oriental Research and the University of Illinois
23 Dissertation Research Fellowship.

24 Q. You have talked about doing field work for your
25 dissertation. I would like you to expand on that and talk

1 about what field work you actually did for your dissertation
2 in Jordan and the West Bank.

3 A. Okay. Field work is a mixed bag. It is a lot of things
4 you have to do. It is archival research, so you are going to
5 libraries and digging up sources and reading books. You are
6 interviewing -- you spend most of your time just talking to
7 people, living amongst the population, talking to people,
8 finding out what they think, how they live. You spend a lot
9 of time just asking people questions, doing informal polling,
10 learning the language, sitting down -- I studied music, so I
11 spent a lot of time sitting down with musicians and we would
12 play songs together, and I would say, "Okay. What does this
13 mean? I don't understand this word. I don't understand this
14 rhythm or this melody And you basically learn the music and
15 the culture through an emersion into that culture in
16 particular.

17 Given the fact that I was operating or doing my research
18 in a time of intense occupation, I was forced to do things a
19 little bit differently. Movement was very difficult, so I was
20 forced to focus my attention on certain villages or towns,
21 because you just couldn't move from one to another. They
22 wouldn't let you.

23 When you do archival research, this is one of the main
24 parts of ethnomusicology you go find archives or collections
25 of music, and you kind of listen to the music and you document

1 them, you analyze them, you catalog them, you try and make
2 kind of a set-list, if you will, of important music.

3 Unfortunately, the archives that I had hoped to work with
4 in Palestine in the archives I had been in contact with before
5 I got there, they were all destroyed by Israeli soldiers
6 during Operation Defensive Shield. In particular the Markaz
7 al-Fanoun al-Sha'bi, which is the center --

8 Q. Could I stop you and ask you to spell that, please?

9 A. Markaz M-A-R-K-A-Z, al-Funoun A-L F-U-N-O-U-N, al-Sha'bi
10 A-L S-H-A-B-I. This means the popular culture center. It is
11 kind of like a YMCA without a pool. These kids, they go with
12 to these kind of afterschool programs to learn dancing, to
13 learn music. It is a cultural center. They have movie
14 nights. They have daycare. Kids come to learn folkloric
15 dancing. This is the place I had hoped to center my research
16 while I was there, and unfortunately it was occupied by
17 Israeli forces during ODS, Operation Defensive Shield, and the
18 archives were destroyed, the instruments were destroyed, and
19 most of the costumes were destroyed. It was basically
20 ransacked. Which meant that what had been a collection of
21 maybe 45, 50 years of Palestinian music had been gone. It was
22 no longer there anymore. It was just destroyed.

23 Q. So what did that mean -- I am sorry to interrupt you, but
24 what did you have to do to make up for that deficit in your
25 field work?

1 A. Sure. I didn't have this archive to work with anymore.
2 How could I really document Palestinian music if I din't have
3 this archive. I was forced to go find the musicians that were
4 still alive. I was forced to go into the rural areas and the
5 villages and to find these musicians and record them myself;
6 kind of make my own archive, so-to-speak, which it allowed me
7 to really get to know the musicians who were active in the
8 resistance movement, get to know the musicians who were using
9 music to communicate a nationalist message. And it was also a
10 great way to get out and to really get a sense of what life is
11 like in the Palestinian territories.

12 Q. You mentioned -- I want to go back to one thing that you
13 said and just ask you to clarify it. You talked about
14 performances, and I think you said that you would perform with
15 musicians in the street and at functions. Did you also -- Did
16 you perform in other places as well more formally?

17 A. Yeah, I did. I was a visiting professor at the Jordanian
18 National Conservatory. I also taught lessons at the
19 Palestinian National Conservatory on saxophone. I was a jazz
20 star in Jordan because they loved jazz but nobody knows how to
21 play it, so I was on the national TV, I was on the radio for
22 my moment of fame, I guess. So I played both American jazz
23 and then I also played Palestinian music with Palestinian
24 groups that were active at the time in both Jordan and in the
25 West Bank.

1 Q. And this was the field work for your dissertation. What
2 ultimately was the title or the subject of your doctoral
3 dissertation?

4 A. The dissertation is basically a study of music and
5 nationalism, and specifically the resistance movement in
6 Palestine. And the title of the dissertation is "My Voice is
7 My Weapon: Music Nationalism and the Poetics of Resistance."

8 Q. Could you tell us, Doctor McDonald what teaching
9 positions you have held?

10 A. Upon graduating with my Ph.D., I taught anthropology at
11 the University of Illinois. I taught ethnomusicology at
12 Bowling Green State University, and I am currently a professor
13 at Indiana University in anthropology, near eastern studies,
14 and ethnomusicology.

15 Q. And what classes have you taught in those teaching
16 positions?

17 A. I teach courses on specifically music in the Middle East,
18 I teach graduate seminars on music and violence, music and
19 social trauma. I also teach courses on music and gender. And
20 specifically next semester, in fact, I am teaching a graduate
21 seminar in music and protest around the world.

22 Q. Do you have any publications?

23 A. Yes. My dissertation is now a forthcoming book with Duke
24 University Press that is set to come out in 2010. Next
25 winter, I guess it is January, I have an article on music and

1 violence coming out in the flagship journal for
2 ethnomusicology. I also have publications coming out in
3 various books on music and trauma, as well as music global
4 conflict and politics. And in fact just this -- most recently
5 I have an article coming out in an Israeli journal on Israeli
6 popular music.

7 Q. How about book chapters or encyclopedia entries, any of
8 that?

9 A. Thank you. I forgot about that. I have also written
10 encyclopedia entries on folk music in this area of the world,
11 folk music in the area of Syria, Lebanon, Jordan, and
12 Palestine. I have written encyclopedia entries in popular
13 music in the Middle East, popular culture, and a book chapter
14 coming out on the relationship between music, violence, and
15 masculinity.

16 Q. Doctor McDonald do you lecture in your field?

17 A. I do, quite often; too often, in fact, if you ask my
18 wife. I read conference papers at various organizations,
19 specifically the Society for Ethnomusicology the American
20 Anthropological Association, Middle Eastern Studies
21 Association, these are all the main academic groupings where
22 scholars get together and present their work. I have lectured
23 at all those places.

24 I have also lectured for an Israeli symposium on music in
25 Israel celebrating the 60th anniversary of Israeli's founding

1 just last spring at the University of Virginia. So I am
2 active both in lecturing on issues of Palestinian music, but
3 also on issues of Israeli music as well.

4 Q. And are those -- The lecturing that you do, is that a
5 volunteer thing as part of your academic work?

6 A. Well, technically it is volunteering, but it is part of
7 your job really. Part of being an academic, part of being a
8 professor, means you have to travel around and present your
9 work. It is a way that your work gets criticized or critiqued
10 by other scholars. It is a way of communicating, of getting
11 to know people in your field, of sharing ideas. And it is
12 also a way of basically scholarly networking. So while it is
13 voluntary, it is something that is required.

14 Q. How about your work in this case? Is this voluntary or
15 are you getting paid for your time?

16 A. I am getting paid for my work in this case.

17 Q. Now, I would like you to explain to the jury first how
18 you as an ethnomusicologist analyze music in performance.
19 What methodology do you use?

20 A. Well, ethnomusicologists use a three kind of pronged
21 approach. We study sound, we study behavior, and we study
22 concept. In sound we take the music itself, just the sounds,
23 the nuts and bolts, the melodies the rhythms, the instruments,
24 the dance steps, all of the things that you can kind of
25 transcribe or write out. That is basically the sound; the

1 scales, the theory behind the music.

2 We also study behavior. Behavior is also very important.

3 We study the ways in which music elicits specific behaviors.

4 For example, a classical music concert of a symphony

5 orchestra, people are going to behave very differently than

6 they would at a heavy metal concert. Those behaviors are

7 different and they are musically important. We study what

8 those behaviors are and how they reflect the music's meaning.

9 And then finally, and this is most important, we study

10 concept--what is the meaning of the music. How do people

11 think of the music. How do they value it. Who listens to it.

12 Is this high class music, low class music. Is it specific to

13 women or men, or a racial grouping, or an ethnic grouping, or

14 a national grouping.

15 All of these things coalesce into what you might call a

16 conceptualization about a specific music type, and this makes

17 up the majority of what we do as ethnomusicologists is this

18 concept.

19 Q. And is that where the analysis of the words and the

20 lyrics of music and performance would fall?

21 A. Right.

22 Q. This third category?

23 A. Sure. Sure. It is one thing to transcribe the lyrics

24 and write them out. It is another thing to actually know what

25 they mean for the people who are singing them.

1 Q. Now, there is also an anthropological aspect to your
2 work, because you are, I guess, an anthropologist Can you
3 explain what your methodology is in terms of that
4 anthropological aspect?

5 A. Ethnomusicology is anthropology It is an anthropological
6 study of music. And so everything I do is anthropological,
7 meaning that everything I do involves ethnographic research.
8 I do ethnography which is a way of documenting culture. It is
9 a way of observing, living in, and being a part of a
10 particular culture, so as to find out what their life ways are
11 like, what is it like to be these people, why do they do what
12 they do. These are the questions that anthropologists try to
13 answer in their work, and they do so by moving there, being a
14 part of them, speaking their language, learning their terms,
15 and doing their things.

16 MS. CADEDDU: Your Honor, at this time I would
17 tender Doctor McDonald as an ethnomusicologist and
18 anthropologist of Israel/Palestine?

19 THE COURT: Counsel?

20 MR. JACKS: Same objection, Your Honor.

21 THE COURT: And he is accepted -- Doctor McDonald is
22 accepted as an expert in those fields.

23 MS. CADEDDU: Thank you, Your Honor.

24 Q. (BY MS. CADEDDU) Doctor McDonald, you made reference
25 earlier, it was kind of a glancing reference and I want to go

1 back to it, to a concept or a term Palestinian resistance
2 movement. Can you explain what that means?

3 A. Sure. Basically this is a very large category that
4 encapsulates anyone or any organization working towards the
5 establishment of a Palestinian state. I studied music as it
6 relates to the Palestinian resistance movement. So my basic
7 -- My specialization was taking, okay, we have this resistance
8 movement. How has music been used as part of this movement.

9 Q. And the jury has heard about the Islamic Resistance
10 Movement. Is that the same thing as this Palestinian
11 resistance movement that you are talking about?

12 A. No, it is not. In fact, the Palestinian resistance
13 movement encapsulates a really broad spectrum of political and
14 social beliefs. The Islamic Resistance Movement would be a
15 part of that, or like a slice of the pie, but it wouldn't be
16 the entire pie.

17 Q. Now, we have talked -- You have explained to the jury
18 generally what an ethnomusicologist does. I would like you to
19 actually talk specifically about your study of Palestinian
20 resistance music and performance now.

21 So what I would ask you is, in your work in this area and
22 your research, have you categorized Palestinian music in some
23 way.

24 A. Well, my first approach was to try and delineate various
25 styles of Palestinian music, because there is quite a diverse

1 spectrum of music that you hear when you are living in these
2 communities. And basically what I ended up coming to, the
3 conclusion I came to was that there were six basic types of
4 Palestinian music. And what I did then was categorize and
5 analyze the music that was going on at the time I was there in
6 relation to those six categories.

7 Q. And do those six categories, did they arise at different
8 times in Palestinian history?

9 A. That is exactly true. Each of these six categories
10 emerged during a specific political moment in Palestinian
11 history.

12 Q. Could you give us a brief overview of this historical
13 development of Palestinian music?

14 A. Sure. Our very first recordings of Palestinian music go
15 back to the 19-teens, and in those recordings we find a
16 repertoire of folkloric songs and dances. These folkloric
17 songs and dances are called Sha'bi music. Sha'bi basically
18 just means folk or of the people. So if I say Sha'bi I am
19 basically saying folk music. This was the predominant means
20 of musical performance up until 1948.

21 And what is really interesting is when you listen to
22 these folk music recordings from the 19-teens, you see that
23 even from the beginning the songs were more than just music.
24 They were ways of communicating politics and news. The BBC
25 actually has a sound archive of these earlier, recordings and

1 when you listen to them you hear these folk songs, but then
2 when you translate the lyrics it is "Bob has lost two goats.
3 Has anyone see them? If you find them, call him because he
4 needs his goats back." It is the news of the day.

5 And then you find another song that was about the British
6 mandate. The British were in charge of this area of Palestine
7 at that time. So they were talking about, "How do we then
8 manage our lives when we have to deal with the British telling
9 us what to do all the time."

10 So even from the beginning of the century this was a
11 means of a way to communicate their views on various issues
12 that were impacting their lives.

13 Q. What sort of terminology or themes did you see in the
14 early -- that Sha'bi type of music?

15 A. The early folk music, it was very diverse. You would see
16 themes of colonial encroachment, meaning themes of like, "The
17 British are taking over our land. What do we do?" You would
18 see themes of heroism and fighting great battles in
19 Palestinian history. It was a way of keeping alive the
20 collective stories of the people, the myths of Palestinian
21 history, it was also a way to document certain families. They
22 would narrate their family histories in this music.

23 So the topics and the themes you find in these songs were
24 quite diverse, and they encapsulate everything from, you know,
25 political commentary to historical stories about battles and

1 great moments in Palestinian history, and then the most
2 mundane things like whether -- you know, basic mundane things
3 about growing crops, you know, "When should we plant our
4 olives" kind of thing.

5 Q. I am going to try and follow along with you here because
6 these are terms we are -- not everyone is familiar with.

7 MS. CADEDDU: Could I have the elmo, please?

8 Q. (BY MS. CADEDDU) Sha'bi, is this the first type you have
9 talked about?

10 A. Yes, the Sha'bi type folkloric music.

11 Q. Okay. And so was there something that happened
12 historically that caused the development of another type?

13 A. Yes. During this period, from 1919 to 1948, Palestine
14 was under what is called a mandate by the British. Following
15 World War I, the British and the French took over this area of
16 the world as protectorates, and that extended until 1948. The
17 mandate ended in 1948.

18 Well, during this time there was a mass influx of Jewish
19 immigrants into the area trying to create a national homeland,
20 a Jewish national homeland. So during this time period in
21 particular the music reflected a lot of those issues. It
22 reflected the influx of Jewish immigration as well as British
23 colonialism, and what was -- Everybody knew the mandate was
24 ending in 1948. It was the timeline. And so both
25 Palestinians and the Jewish communities were in a race to

1 amass the most weaponry the most arms. So when the mandate
2 ended in 1948, it was a mad dash to see who could claim that
3 area as their state.

4 In 1948 the war broke out after the mandate ended, and
5 ultimately the state of Israel was founded on about half of
6 the land that was there in historic Palestine. This was a
7 watershed moment for Palestinians, of course, because between
8 700,000 and 900,000 of them were forced to leave their homes,
9 and it also established the state of Israel and it was a huge
10 defeat for the Arab countries around them. Because of all
11 this, the music changed drastically.

12 Q. Okay. And so what type of music is associated with this
13 period?

14 A. 1910 to 1948?

15 Q. After 1948, the next period.

16 A. From 1948 you find an entirely new repertoire of music
17 that is called Watani or nationalist music, and it is from a
18 very different political stance or ideology.

19 After the defeat of the Arab forces and the establishment
20 of Israel in 1948, a very charismatic Egyptian leader by the
21 name of Gamal Abdel Nasser came to power, and he came to power
22 under an ideology of pan-Arabism. Pan-Arabism means basically
23 all of the Arab nations needed to come together and create a
24 much larger pan-Arab State so the music of this time moves away
25 from the folkloric because the folkloric is distinctly

1 Palestinian, and then instead becomes more pan-Arab
2 nationalist. So you have song texts that are in classical
3 Arabic rather than in Palestinian dialect, you have classical
4 Arab instruments being used, you have large symphony
5 orchestras, you have very complex music theory and rhythm, it.
6 Was basically a time of high art in Palestinian music based on
7 this idea of the pan-Arab nation that was going to one day
8 come to their aid and establish a homeland for them.

9 Q. And that time period, when does that time period end, in
10 your analysis?

11 A. This time period abruptly ends in 1967 with the Six Day
12 War Should I correct the Sha'bi period to start at 1919

13 A. Well, you know, we have The evidence shows that the music
14 was being performed long before 1919. The historical or
15 political moment is 1919, but really it is the same thing.

16 Q. Okay. And what happened in 1967 that changed the music,
17 and what musical genre arose at that time?

18 A. Well, up until this time there was this ideology that the
19 pan-Arab nation was going to come together and establish a
20 homeland for the Palestinians. The Six Day War was a moment
21 where that very thing attempted to happen. It was a war
22 between Israel and all of its neighbors. And within six days
23 Israel had completely destroyed all of the military might of
24 its neighbors--Egypt, Syria, Lebanon, and Jordan, and even
25 some soldiers from Iraq. So this idea that the Arab world was

1 going to come to their rescue, that dream completely ended in
2 1967. And Palestinians realized that their goal of having a
3 homeland was not going to come through the pan-Arab nation,
4 but rather it was something that they had to do themselves.

5 Q. And so what musical type arose during this period?

6 A. This was also a type in the late 1960s. There were third
7 world liberation movements going on all around the world--in
8 Cuba, in Vietnam, in China, in Algeria, and coupled with --
9 and also in Palestine with the rise of Yasser Arafat and the
10 PLO. So the music that was associated with this time period
11 of 1967 onward was called Thowri music. And Thowri means
12 revolutionary music. So when I say Thowri I mean
13 revolutionary music.

14 This music was very different than the first two
15 categories I told you in that it involved unison male singing,
16 martial hymns type singing with a very pounding rhythmic beat
17 so as to emulate the sounds of gunfire or cannons. It was the
18 kind of martial resistance music you would hear in fact
19 many places around the world at this specific point in time.

20 Q. And what happened next?

21 A. This style of music was in vogue until 1982, when once
22 again that dream of liberation by the hands of Yasser Arafat's
23 PLO was dashed in the Israeli siege of Beirut in 1982. Up
24 until this time Arafat and the PLO were located in Beirut, and
25 this was the center of the Palestine resistance movement.

1 When Israel laid siege to the city and ultimately
2 destroyed all of their offices and seized all of their
3 archives in 1982, all of the music that was associated with
4 Arafat and music that was associated with the PLO completely
5 lost favor. All of a sudden nobody wanted to listen to it
6 anymore because they knew it was a myth that wasn't going to
7 happen.

8 And what ultimately happened in 1982 is you find a
9 resurgence of the Sha'bi folkloric songs once again, such that
10 -- It is actually kind of a unique movement in that the
11 Palestinians realized that this Thowri music wasn't the right
12 thing for them either. The political ideology behind that
13 music wasn't right for them. If they were going to in any way
14 create a national homeland, they were going to have to do it
15 themselves.

16 Up until this point in time they had been waiting for
17 somebody else to liberate them. First they were waiting for
18 the U.N., then they were waiting for the pan-Arab nation, then
19 they were waiting for Arafat who was stationed in Jordan and
20 then later in Beirut. In all of this they realized, "Look.
21 The answer is not going coming from outside. We have to do
22 this ourselves." This is reflected in the music, because the
23 folkloric music is the most Palestinian music. And it is the
24 music that reflects their Palestinian their identity the most.
25 So in a very unique way they all of a sudden went back to that

1 folkloric repertoire as a way of articulating their
2 Palestinian nationalism.

3 Q. And how long did that resurgence of the Sha'bi or
4 folkloric music last?

5 A. It lasted until roughly the beginning of the first
6 Intifada in 1988. It was kind --

7 Q. December 1987?

8 A. December 1987, yeah. And this is coupled with a very
9 unique emergence of a musical genre which had not been found
10 in this area of the world, and it actually coupled with the
11 rise of Islamist organizations such as Hamas.

12 When the Intifada began in 1987, Hamas -- nobody really
13 knew who they were. All of a sudden they were kind of thrust
14 into the front lines of Palestinian politics and everybody was
15 talking about them. In this sense there was a new repertoire
16 of Islamic music, often called Anashid which became very
17 popular during this time.

18 Q. From 1987?

19 A. 1987 to 1993.

20 Q. And then was there anything that happened thereafter?

21 A. Well, yes. The Intifada period was a time of protest and
22 daily demonstrations against the occupation, and during that
23 time music was extremely important for keeping people
24 motivated to do these demonstrations, to keep them feeling as
25 part of a synchronous unit. But it was also important because

1 it communicated the various political ideologies of the
2 various groups that were active at that time.

3 So during the Intifada you have Sha'bi music, Thowri
4 music, and Anashid music all being played by rival political
5 groups as a way of espousing their political ideology.

6 During this time of the Intifada, this resistance,
7 Anashid was perhaps the most exciting because it was the
8 newest. So while you find various performances of all of
9 these various types, the Anashid was the one that everybody
10 was kind of paying attention to because it was the newest one
11 on the block, so-to-speak.

12 Then in 1993 begins what is called the Oslo period. And
13 what ultimately happened was while the Intifada had dire
14 consequences for Palestinians, it had an effect on the Israeli
15 state as well and actually compelled them to the negotiating
16 table in 1992 and 1993, when ultimately what happened was
17 Israel realized that pictures of young kids throwing stones at
18 tanks and seeing scenes of women and children being harassed
19 by Israeli soldiers, or worse, broadcast around the world did
20 a lot to hurt their reputation in the world at large. People
21 were taking note of the occupation and the Intifada and the
22 resistance.

23 And the other thing is the Intifada was very expensive
24 for Israel because they were spending massive amounts of money
25 trying to quell a demonstration that they couldn't quell.

1 They couldn't stop it. So ultimately they decided the only
2 way for them to truly stop the resistance movement, stop the
3 Intifada, to stop the demonstrations, would be to find a
4 Palestinian leader who would stop it for them, basically.

5 And so they pulled Yasser Arafat out of Tunis, where he
6 had been in exile for several years, and began a negotiation
7 timeline that was then later called the Oslo Accords, because
8 it took place in Oslo. This happened in 1993. And it marks
9 the end of the Intifada as well as the end of this style of --
10 the emergence of the Anashid style of music.

11 Q. And had there been any developments in Palestinian music
12 since?

13 A. There have, in fact. This moment in 1993 is really
14 incredible, because it is a moment where Palestinians don't
15 quite know what to do next. They are told that negotiations
16 are going to happen, but they are not sure. Political opinion
17 is very diverse on the Oslo Accords. "Should we be
18 negotiating? Should Arafat be the one negotiating for us? We
19 have never elected him."

20 MR. JACKS: Your Honor, may we approach the bench?

21 THE COURT: Yes.

22 (The following was had outside the hearing of the
23 jury.)

24 MR. JACKS: Your Honor, this witness is throwing out
25 opinions about all kinds of political issues, and I don't

1 think there has been any showing that he is qualified to
2 render opinions about these political issues. He has been
3 represented as an ethnomusic expert, but him interjecting his
4 opinion about these political events is not something that he
5 has been qualified for, and there is no basis to show what is
6 the basis of his opinion. Nothing has been established in
7 terms of, you know, his expertise in this area. So he is just
8 interjecting all these political opinions that the Israelis
9 pulled Arafat out of Tunis and selected him -- I mean, there
10 is just nothing to support him rendering these kind of
11 statements.

12 MS. CADEDDU: Well, I mean, he studied this period
13 in great detail. He knows a whole lot about it. And what he
14 is trying to do is explain the development of the music and
15 what its response -- the response of the music, and the
16 development of the music is a response to what is going on
17 politically, and so I don't know that he can talk about the
18 development of the music in a vacuum.

19 I mean, this is actually the last period, and then we are
20 going to talk about the individual tapes. But, I mean, what
21 we are doing here is talking about the development of
22 particular musical types as a result of certain political
23 events.

24 MR. JONAS: Your Honor, he can certainly say in 1993
25 Oslo happened. The jury has heard a lot about Oslo, and then

1 go on from there.

2 THE COURT: I think he is probably going a little
3 further than what --

4 MS. CADEDDU: He is a college professor, Judge.

5 THE COURT: -- than what your foundation has
6 established. I understand you have to have context, but I
7 think they are correct that he is giving opinions that he
8 doesn't need to give.

9 MS. CADEDDU: I understand.

10 (The following was had in the presence and hearing
11 of the jury.)

12 Q. (BY MS. CADEDDU) Okay. Doctor McDonald, let's talk
13 about what was happening musically during the Oslo period.

14 A. Yeah. Basically what was happening is there was this
15 moment of hope in the sense that musicians were attempting to
16 try new things in their music. They were starting to
17 incorporate elements of jazz, they were starting to
18 incorporate elements of Western classical music. There was a
19 moment where all of a sudden the politics took a back step,
20 because people had a hope that things were changing, in the
21 sense that music reflected a spirit of anticipation that had
22 been absent from Palestinian music for a very long time. This
23 was a period where people didn't quite know what was going to
24 happen next, but they knew it was a change. And so the music
25 was changing.

1 The music, all of a sudden you would have Palestinian
2 groups singing alongside Israeli groups. You would find
3 collaborations taking place. And you would also find a new
4 kind of zeal towards learning new things in music. So it
5 wasn't completely isolated to just Palestinian stuff.

6 But what this meant ultimately was a lot of this
7 resistance music that had happened since lost favor. Nobody
8 wanted to listen to it anymore. This is really the ironic
9 thing. All of these great resistance musicians who were
10 singing before thousands of people in 1993 all of a sudden
11 they were out of a job because people didn't want to hear
12 about the violence anymore. They didn't want to hear about
13 the politics anymore. "We are done with that. Let's move
14 on." So these guys ended up driving cabs. They ended up
15 working construction gigs. They ended up doing odd jobs as
16 laborers, because all of a sudden they couldn't find work as
17 musicians performing this resistance violent political style
18 of music. So, you know, they were given two choices. One
19 choice is to kind of hold fast to their ideals and basically
20 be unemployed, or start singing new kinds of music.

21 Q. And what would you call that new kind of music that they
22 were singing at that time?

23 A. I call it Classically music or Arab classical music,
24 because it was a moment where Palestinians were trying to
25 incorporate new things. So you have Palestinians writing

1 symphonies or you have them making really interesting
2 collaborations with foreign musicians. They are starting to
3 travel around the world. Oslo allowed them to finally start
4 traveling to Europe, for example. So these musicians start
5 singing alongside with musicians around the world. And all of
6 a sudden it creates this moment of really intense creativity
7 that had been absent beforehand.

8 Q. And how long did that last and what ended it?

9 A. Ultimately this kind of period of creativity ended in
10 2000 with the beginning of the second Intifada when you have
11 kind of an immediate reversion back to Intifada mode or
12 resistance mode, and all of these older resistance songs
13 immediately get rebirthed or brought back into the public
14 sphere.

15 Q. And was there another type of music that arose during
16 this second Intifada period, one of your six?

17 A. Yeah. This is the final one of my six. When the first
18 -- the second Intifada started in 2000, there was this
19 outpouring of sympathy in the Arab world for what was
20 happening to the Palestinians who were living under occupation
21 such that you have pop musicians all over the Arab world who
22 all of a sudden started singing songs for Palestinians. So I
23 call this just pop, Arab pop, or Palestinian pop. It would be
24 akin to our modern day popstars all of a sudden singing in
25 regards to a particular political moment. It was a way of

1 showing solidarity back where they were before with the second
2 resistance and the second Intifada.

3 Q. And the ClassClassiqi period, would that go to 2000?

4 A. 2000, and then 2000 is when the pop starts.

5 Q. Okay. So now that we have talked about the six types of
6 Palestinian resistance music that you have categorized in the
7 historical periods associated with those, I would like to turn
8 now to your work in this case.

9 First of all, what have you reviewed in preparation for
10 your testimony today?

11 A. I was given 55 DVDs of various performances as well as
12 five full length videotapes of complete performances in their
13 entirety.

14 Q. And can you explain in detail what you did with all of
15 the clips and all of the complete videotapes that you
16 reviewed?

17 A. Basically what I did is I went through and analyzed them
18 using this sound behavior and concept model. I diagramed the
19 songs that I heard, cataloged them, analyzed them, the lyrics
20 as well diagramed them, cataloged them, the rhythms, the
21 dances that I saw. Many of the performances were amidst a
22 very large audience, so I documented the behaviors I saw going
23 on in the performance environment, what people were doing, was
24 there dancing, what kind of dancing, was the dancing
25 important, what are they wearing, is that important, the

1 signage behind them. And then I also did an analysis of the
2 themes that I found in these songs, isolating important themes
3 and how they relate to this catalog of Palestinian music.

4 Q. And did you look at the historical context of each of the
5 tapes the dates?

6 A. Yes. I was able to date the performances that I was
7 given based on sometimes there would be a banner in the
8 background on the stage that would have the date on it.
9 Sometimes the little camcorder would have the date in the
10 bottom right hand corner. Sometimes I could match what was
11 going on on stage with the clips that were given to me and
12 those clips had dates given that were ascribed to them on a
13 cheat sheet that was given to me. So I was able to date all
14 of the performances as I analyzed them.

15 Q. So you received also a copy of the case agent's cheat
16 sheet of dates from this case?

17 A. Right.

18 Q. And what was the result -- What was the result of your
19 analysis as far as the musical types among the ones that you
20 have identified?

21 A. Very clearly this group focused entirely on three of the
22 categories of Palestinian music that I talked about.

23 Q. And what were those three? And I will put this back up
24 here just to mind us of what they are.

25 A. The group that was performing in those videotapes focused

1 specifically on Sha'bi folkloric music, Thowri revolutionary
2 music, and Anashid Islamist music.

3 Q. And if you can remind us again, we have it here, but what
4 historical periods -- in which historical periods those three
5 types that the band in these videos, the music that the band
6 in these videos was performing of the historical periods,
7 those three are associated with.

8 A. Sha'bi music is associated with pre-1948 Palestinian
9 before Israel was founded. Thowri music is associated with
10 the middle revolutionary period of 1967 to 1982, and
11 specifically the PLO. And the Anashid is associated
12 specifically with the first Intifada and the political
13 ideology of Islamism.

14 Q. The jury has seen exhibits in this case about
15 performances by a band identified as Al Sakhra and then later
16 as Al-Nujoom. You saw references to those names?

17 A. Yes.

18 Q. Let's talk first about the early performances of the Al
19 Sakhra Band. First of all, what does the name Al Sakhra mean,
20 and what is its significance?

21 A. Sure. For a Palestinian just the name Al Sakhra Band
22 will immediately tell you what kind of music you are going to
23 hear, or what kind of politics you are going to hear. Al
24 Sakhra means the rock, and in particular it doesn't mean any
25 rock. It means the rock upon which the prophet Muhammad

1 ascended into heaven, the rock encapsulated in Jerusalem under
2 the dome. So, you know, you are hearing an Islamist message
3 in the music and an Islamic aesthetic in the performance.

4 Q. And when you say Islamist, can you explain what you mean
5 by that term?

6 A. Well, as Doctor Esposito said before me, an Islamist is
7 anyone who participates in a social or political movement that
8 has as its root Islamic principles.

9 Q. Is that the same thing as being a Hamas person?

10 A. No, not in the slightest. In fact, when Hamas --

11 MR. JACKS: Your Honor, I am going to object this is
12 as outside the scope of his area of expertise, and we would
13 object.

14 THE COURT: Overrule that objection. He may state
15 that opinion. Go ahead.

16 THE WITNESS: At the time that Hamas was founded,
17 there were four or five different Islamist organizations.
18 Hamas was just one of several. There was the Muslim
19 Brotherhood, the Islamic Jihad, the Party for the Liberation
20 of Palestine, and Hamas. I mean, it was just one of many
21 Islamist organizations.

22 Q. And in your field work are you aware of whether these
23 four groups are still active in Palestine?

24 A. Many of them are still active in Palestine. That is
25 true.

1 Q. But which would be the most prominent, in your opinion?

2 A. Today certainly Hamas is the most prominent.

3 Q. Now, back to the early performances of the Al Sakhra Band
4 we were talking about a moment ago. How do -- And when I say
5 early performances, what would be the dates of the earliest
6 performances that you see in your --

7 A. The earliest one I had was 1988.

8 Q. And how would the performances of the Al Sakhra Band that
9 you see in the videotapes from this case compare with the
10 performances of other Palestinian music groups that were going
11 on at the same time?

12 A. This group really surprised me. The way they approached
13 their performances was very different from the way other
14 Palestinian groups were performing at that same point in time
15 1988.

16 Q. And how so?

17 A. Specifically, most commonly, if you would go listen to a
18 band play, you are going to get one of these categories,
19 basically because they are trying to communicate a political
20 message to you in the music, and that message is either one of
21 secular nationalism, one of --

22 Q. I am going to stop you there and ask you to define
23 secular nationalism.

24 A. That is basically Palestinians who want to create a state
25 that doesn't have a religion as its fundamental identity.

1 Q. And is that what secular means?

2 A. Secular means not religious. So you would have a
3 Palestinian, Muslims, and Christians, for example, wanting to
4 create a national state without there being an official
5 religion. Those types of groups you would only hear Sha'bi
6 songs. You would only hear the folkloric songs.

7 If you were going to, say, hear a performance of Thowri
8 music, those groups were often associated with the socialist
9 organizations, the communist organizations, the PFLP the PFLPF
10 These are names of different political groups. And also the
11 PLO was often associated with Thowri music.

12 And the Anashid was associated with the Islamist
13 organizations active at the time, most prominently Hamas.

14 This group really surprised me in that they performed
15 three different categories of music in their performances, and
16 I am convinced that if they gave one of their performances in
17 the territories, they would have been booed off stage because
18 you can't mix these politics in many ways. And so it was very
19 surprising for me to see that they incorporated three
20 different styles of music into their performances.

21 Q. And just again I am going to mark them on here. What are
22 the three?

23 A. The Sha'bi folkloric, the Thowri revolutionary, and the
24 Anashid Islamist.

25 Q. Okay. Now, let's take a look at some examples of this

1 and the analysis that you are talking about.

2 Could we see Elbarasse Search No. 32-E, please?

3 Q. (BY MS. CADEDDU) And what I am going to ask you to do,
4 Doctor McDonald, is to ask to pause the video when there is
5 something that you want to comment on, and I will actually do
6 the same.

7 A. Okay.

8 (Whereupon, Elabarasse Search No. 32-E was played,
9 while questions were propounded.)

10 Q. (BY MS. CADEDDU) What is the year of this videotape,
11 Doctor McDonald?

12 A. This one is dated in 1988.

13 Q. Let's just reorient us. What is going on in Palestine in
14 1988?

15 A. This is the very beginning of the Intifada. This is a
16 moment of intense demonstrations, resistance, stone throwing.
17 It also marks the emergence of Hamas onto the national scene.

18 Q. Go ahead.

19 MS. CADEDDU: Your Honor, for Doctor McDonald to
20 help him I have a copy of the cheat sheet, Agent Burns' cheat
21 sheet, and also some of the transcripts so he can refer back
22 to those.

23 THE COURT: Sure. Go ahead.

24 THE WITNESS: What we have seen there in the
25 beginning is really characteristic of this Sha'bi folkloric

1 style of music making. If you notice, everybody on stage is
2 wearing the black checkered kofia the scarf that is kind of a
3 national symbol of Palestine, and you have this group of
4 dancers in the front of the stage wearing a folkloric overcoat
5 called a qumbaz and this what they are wearing, these costumes
6 are signs or they are symbols of like the folk or the farmers
7 or the people in the fields who would farm the olives. This
8 is the clothing that they would wear.

9 So for them to wear this on stage shows you their
10 costumes are also meant to signify a Palestinian folk, the
11 rural, the people kind of a thing.

12 This piece began with what is called an Itabah, and
13 specifically the Itabah is a folkloric song type that is
14 improvised. The singer takes improvised poetry that they make
15 up on the spot, and they sing it in a very florid ornamented
16 style designed to emit a pathos of lament. So the singer sang
17 out ouf ouf ouf, and that syllable is meant to evoke pain
18 or suffering. It is kind of a lament and this is a song type
19 meant to communicate those types of feelings.

20 Immediately following this Ala Dal'ona and that is what
21 this phrase is, Ala Dal'ona is a really interesting song type
22 in folkloric music. It is a dance. It is a dance that you
23 would hear at weddings. It is a dance you would hear at
24 engagement parties or lifecycle events, the birth of a child.
25 You would see this kind of song, these dances performed at

1 calendric events, like every fall during the harvest you would
2 have these kinds of things. And the Ala Dal'ona is
3 specifically associated with what they are doing on the stage
4 called the debkeThe debke is this line dance we will see in a
5 second. I cannot underscore enough the importance of the
6 debke in Palestinian culture and in Palestinian nationalism.
7 The debke is the most important Palestinian symbol of their
8 identity. And because of that you often see these types of
9 dances taking place at concerts because it is associated with
10 the folk, it is associated with weddings, it is associated
11 with those moments where Palestinians feel the most a part of
12 a community

13 Q. Well, you said this is a folkloric Sha'bi type of song,
14 but we hear Ahmed Yassin's name. What is up with that?

15 A. This is an interesting thing about Palestinian music. As
16 I said before, when you look at those really early recordings
17 of Palestinian music, you hear news of what is going on at the
18 time. In this instance the singer has composed a stanza a
19 poetry about Ahmed Yassin, which is entirely in character with
20 this kind of music. Ahmed Yassin was the new guy on the
21 street. Hamas was the flavor of the moment. And at this time
22 everybody was talking about Ahmed Yassin. Whether or not they
23 agreed with him or not, he was the subject of political
24 commentary.

25 So for a musician to be singing about Ahmed Yassin there

1 shows that he is in many ways articulating what is going on at
2 the time. He is keeping the music current. It is a way of
3 talking about a current event.

4 Q. Go ahead and start, please.

5 Is there anything else you want to say about that, or
6 have you finished on that debke --

7 A. Yeah. The debke line dance, the Ala Dal'ona as a dance
8 type, the al-tabah this is as folkloric as it gets.

9 Q. This what we have seen would be an example of Sha'bi or
10 folkloric type performance?

11 A. Yes.

12 MS. CADEDDU: Could we take a look now, please, at
13 Elbarasse Search No. 32-G?

14 Q. (BY MS. CADEDDU) And you have I think, the transcript in
15 front of you so you can follow along.

16 (Whereupon, Elabarasse Search No. 32-G was played,
17 while questions were propounded.)

18 THE WITNESS: That is a great example of the Thowri
19 the revolutionary type of songs I was talking about earlier.
20 If you notice, there was just one drum and it was just doing a
21 pounding dupal meter. That rhythm is meant to be the sound of
22 marching boots or gunfire or cannons, but it is meant to
23 elicit feelings of war, revolution. If you noticed, it was a
24 male chorus singing in unison. They were all singing the
25 exactly same line together. This is also an important

1 characteristic of Thowri music.

2 You also notice the singing style was very different than
3 the first time. It was very ornamented the first time, it was
4 very florid, it went up and down, it was very virtuosic it was
5 difficult. This was very simple. It was a very simple,
6 basically a four-note phrase repeated over and over again,
7 almost like a chant. These are all characteristics of this
8 revolutionary style, this Thowri style of music making.

9 Q. And the Thowri style of music dates again, remind us,
10 from which period of Palestinian music?

11 A. 1967 to 1982.

12 MS. CADEDDU: Could we take a look please at
13 Elbarasse 32-F, please?

14 (Whereupon, Elabarasse Search No. 32-F was played,
15 while questions were propounded.)

16 Q. (BY MS. CADEDDU) We are going to look in a second at the
17 music that comes at the end of this, but I wanted you to talk
18 to the jury about what you are seeing here and how this
19 compares to what you have seen in your research.

20 A. Sure. If you will notice, they are reenacting a
21 demonstration. They are doing kind of a dramatic reenactment
22 of the type of political demonstration you might see on the
23 streets during this same time period. If you notice, what is
24 different about this particular mock protest is that they are
25 all holding the Quran over their head and they are -- also you

1 see here the green flag of Hamas with the shahada written on
2 it, the very important Muslim phrase.

3 This -- Just from what we have seen right here, you can
4 already see, both in how they are dressed, the way they are
5 acting, and the words that they are saying, that this is --
6 not only is it a reenactment of a protest, but it is a
7 reenactment of an Islamist protest. It is a very
8 Islamist themed dramatization.

9 Q. Remind us again, this clip and the two before that we
10 have seen come from what year?

11 A. This one is dated 1988.

12 Q. And they all come from the same video?

13 A. Yeah, the same video.

14 Q. Okay.

15 MS. CADEDDU: Could you fast forward, please, to
16 3:13, and then start it again there for me? We will kind of
17 skip the middle part of the marching and go to the end.

18 Q. (BY MS. CADEDDU) Could you talk about this a little bit,
19 Doctor McDonald?

20 A. Like said, this is a dramatization of a protest
21 demonstration. And here we see that the group is protesting,
22 and out walk two Israeli soldiers, or people playing the role
23 of Israeli soldiers, and they act like they are shooting on
24 the protestors, and then you notice everybody scatters, and
25 even some of the children throwing stones, or fake, playing

1 like they are throwing stones at the Israeli soldiers.

2 So you see that they are drawing upon this performative
3 kind of dramatization of a political demonstration that might
4 be taking place at this time.

5 Q. And were you able to identify -- The two people who are
6 playing the role of the Israeli soldiers, were you able to
7 identify any of those from the rest of the videos that you
8 have seen?

9 A. Yes. One of the men playing the Israeli soldier was the
10 Defendant Mufid Abdulqader.

11 Q. My client?

12 A. Your client.

13 Q. All right.

14 Could we keep going now, please.

15 A. So basically this is a great example of Anashid This is
16 what the Islamist style of singing is. Notice that there was
17 no drumming, there was no rhythm, there were no other melodic
18 instruments at all. It was just the solo male voice singing,
19 improvised, unmetered, very ornamented recitation of a
20 specific poetic is the very definition of an Islamist chanting
21 or Anashid.

22 Q. And so just to recap, in this video we have seen from
23 1988, Elbarasse Search No. 32, what have we seen?

24 A. Well, we have seen a great diversity in their approach to
25 performing this style of music. We see Sha'bi folkloric, we

1 see Thowri revolutionary songs, and Anashid songs all
2 encapsulated in the same performance.

3 Q. Now, you have talked a little bit about the
4 demonstration, the reenactment of the demonstration we have
5 seen on this video Elbarasse Search No. 32. Did you also see
6 videotapes of other dramatic performances by the Al Sakhra
7 Band later known as Al-Nujoom, and its members.

8 A. Yes. There were several of those skits, reenactments.

9 MS. CADEDDU: Could you play Mushtaha 1-F, please?

10 (Whereupon, Mushtaha Search No. 1-F was played,
11 while questions were propounded.)

12 Q. (BY MS. CADEDDU) And do you know, Doctor McDonald what
13 year this Mushtaha No. 1-F dates from?

14 A. Offhand I don't.

15 Q. Is it on your cheat sheet?

16 A. Thank you. If I saw the video, I can tell you
17 immediately. 1990.

18 Q. Okay. And again, please pause it when you want to make
19 remarks about the video.

20 A. Why don't we pause it right here, and I can set it up a
21 little bit. This is a dramatization of a dialogue that takes
22 place between an Israeli soldier and someone who is playing
23 the role of an Israeli soldier and someone who is playing the
24 role of a Hamas member. And what is really interesting about
25 this clip in particular is, this kind of performative dialogue

1 or performative debate is really common in Palestinian
2 folkloric music.

3 It is very common, for example, at weddings where you
4 would hire two singers, and the singers would then debate each
5 other on an issue. Sometimes it would be political.
6 Sometimes it would be something silly or humorous. But it is
7 a way for these singers to kind of demonstrate their vocal
8 prowess by improvising poetry on the spot that debates the
9 other side. I mean, it is kind of like a cutting contest in
10 jazz where players would meet up and compete against each
11 other, or a battle among hip-hop guys. It is the same kind of
12 thing, except this is something Palestinians have been doing
13 for almost 100 years.

14 In this instance, though, it is reconfigured considerably
15 to perform a political discussion or a political debate among
16 two characters from each side of the conflict.

17 Q. Okay. And in this clip, he is off the screen now, but
18 did you see who was playing the role of the Hamas character?

19 A. Mufid Abdulqader is playing the Hamas character.

20 Q. And among -- Just to digress for one moment. Among all
21 the video clips and the complete tapes that you saw, what
22 roles did you see Mr. Abdulqader play?

23 A. Mr. Abdulqader played an Israeli soldier, a Hamas
24 soldier, he also played a hasidic Jew, and he even played a
25 roll of Yasser Arafat.

1 Q. Yasser Arafat being?

2 A. The former president of the Palestinian Authority.

3 Q. And he is -- What political faction was he the leader of?

4 A. He was the founder of Fatah and the president of the PLO
5 for many, many years.

6 Q. Palestine Liberation Organization?

7 A. Palestine Liberation Organization.

8 Q. Could you continue, please?

9 A. Let's pause there. What is really interesting about this
10 clip is when I first saw it -- I have actually heard this
11 performance before in another context in my own research,
12 except they have changed the lyrics around to when he says "I
13 am Hamas," the version that I had heard before was "I am a
14 revolutionary." So in this instance they are basically
15 inserting Hamas into the dialogue. But what is really going
16 on here is he is singing a verse, he just sang a verse, and if
17 you notice the audience responded to him by singing parts of
18 it back to him. This is also part of that same folkloric
19 practice of singing debate where the crowd gets involved and
20 the crowd sings with the singers on stage as a way of voting
21 who is doing the better job. So the idea is to get the most
22 participation among everybody.

23 So he has just sung his first verse and basically taught
24 the audience what the response is, and from here we hear what
25 the Israeli side of the discussion is.

1 Q. And would you expect to hear about Hamas a political
2 movement in a Sha'bi

3 A. The Sha'bi folkloric.

4 Q. Folkloric type song?

5 A. Yeah. It is not uncommon.

6 Q. And that is why?

7 A. Because, like I said, this music was used to communicate
8 the current events of what was going on at the time. For them
9 to put Hamas in there doesn't surprise me at all. I am sure
10 if it were done today they would insert something going on
11 today.

12 Q. Could you continue, please?

13 A. Let's pause there. So we have seen the Israeli character
14 basically begin his singing, and he is giving his point of
15 view, and he is basically saying, "This Hamas is a new melody
16 which is a really interesting line because he is saying -- You
17 know, he is a Zionist soldier. "We have never heard of
18 Hamas." This is kind of a new wrinkle. This is a new thing.

19 And then he introduces himself to the crowd the same way
20 that the Hamas character introduced himself to the crowd. He
21 says, "I am a Zionist." And he says, "I am the known Zionist.
22 My situation is known in the world." Basically he is saying
23 that, "Everyone in the world knows who I am. People know my
24 story; the story of Jewish immigration, the story of the
25 Jewish holocaust and the foundation of Israel in the process

1 of Zionism. Everybody knows that." So he is basically
2 saying, "Everybody knows who I am, but nobody knows where you
3 are. You are the new guy. You are the new melody."

4 Let's pause right there, please. So, you know, the Hamas
5 character then answers him, "You may not know who I am, but I
6 am here to protect my homeland."

7 And the Israeli soldier in an interesting -- kind of
8 interesting kind of insult to him says, "You want to wipe out
9 the name of the Zionists, you yourself? Armies will not wipe
10 out the name of the Zionists, and you coming to erase the name
11 of a Zionist with a stone?" This is basically sticking it to
12 him in a way. He is insulting him. He is saying, "You think
13 you can wipe out my name with just a stone? Everybody knows
14 who I am. I am powerful."

15 Q. And what is the stone reference?

16 A. The stone is a very powerful symbol among Palestinians,
17 because the Intifada was characterized by children in the
18 streets throwing stones at Israeli tanks. So the stone and
19 the act of throwing a stone is seen as the ultimate
20 demonstration of a power imbalance between Palestinians, who
21 have no army, and Israel, who has one of the most
22 sophisticated Armies in the world.

23 Q. Continue.

24 A. Let's pause there. This is really an interesting
25 reference, and it is very easy to slip by, but it is actually

1 really important; important for understanding the meaning of
2 this clip. Basically the Hamas character replies, "You must
3 leave. Do you want to own this land? Early tomorrow you will
4 own it. You will own it when you see Munkar and Nakir."

5 Munkar and Nakir is really kind of a deep reference
6 there. In the Islamic faith it is believed that after you die
7 two angels visit you in your grave and ask you three
8 questions, and based on how you answer those questions
9 determines whether or not you will go to paradise, go to
10 heaven or not. Those two angels' names are Munkar and Nakir.
11 So he is basically saying, "You will own this land when you
12 talk to Munkar and Nakir tomorrow," meaning after you are
13 dead.

14 Q. Continue.

15 A. Pause there, please. So in that line we have yet another
16 escalation of this discussion. Each time you notice they are
17 ratcheting up their dialogue with each other, and this is I
18 think an important political statement he is making. The
19 Jewish, the Israeli soldier in this sense says, "I am the Jew
20 and I do not fight. My daughters answer on my behalf." He
21 begins that version by saying, "What is wrong with you? You
22 should resist in war and fight one time, even though a Jew
23 does not fight, I mean, but he has another way. I am the Jew
24 and I do not fight. My daughters answer on my behalf,"
25 meaning he doesn't have to fight. He has people who can fight

1 his battles for him. "You are not going to win because I
2 don't even have to fight you. I have other people who will do
3 it for me."

4 I mean, to me this is a very veiled reference to Israel's
5 relationship with America, in particular, who oftentimes takes
6 its side in these discussions. So he is saying, "I don't even
7 have to fight. Ninety times out of one hundred I am going to
8 win because I have these people to answer for me."

9 Q. Continue.

10 A. So in this response, notice how they are just bickering
11 back at each other. They are arguing, using music as
12 promoting their point of view.

13 In this last verse you notice he says, "I will make your
14 casket and dig your grave in Jenin." Jenin is a village in
15 the West Bank, and it is a very -- it is actually a refugee
16 camp from 1948. And the use of Jenin here is important
17 because he is talking about a very important Palestinian
18 village. And that he is going to bury him in Jenin, I mean,
19 it is a threat, of course, but the fact that he is using
20 Jenin, he is claiming the land, in a sense, he is claiming
21 Jenin as Palestinian.

22 And you notice the Israeli soldier here, he laughs at him
23 and he says, "he thinks that Jenin in which he is going to dig
24 my grave is his land. This is not your land. This is our
25 land." And this is where it picks up from here.

1 Go ahead.

2 If you can pause there, please. So this line right here
3 is great, in the sense that he is really communicating a very
4 powerful message by saying, "You think this is your land.
5 This is Yehuda and Sumra," meaning Judea and Samaria. Judea
6 and Samaria are the Israeli terms for the West Bank and Gaza
7 Strip. In Israel they don't use the terms West Bank and Gaza
8 Strip, because that implies that there are Palestinians who
9 live there. So instead, they use the Jewish equivalence for
10 those areas by calling them Judea and Samaria the Biblical
11 terms. So he is saying, "You think Jenin is yours. Jenin is
12 not yours. Jenin is Samaria and Judea He is claiming the
13 land. Each of these guys are using music to claim the land.
14 They are using names to claim the land. "This isn't yours.
15 This is ours. We call it this and it is ours."

16 He says, "This is the abundant land of our forefathers.
17 The world knows its story from America to Berlin." The use of
18 America and Berlin here is really important because it also is
19 associated with the holocaust and the story of Zionism and the
20 story of the creation of a Jewish homeland in this area of the
21 world.

22 Pause there, please. Now, notice what he did. First, we
23 started with Jenin then we got Judea and Samaria and he said,
24 "No, no, no. From Gaza till Abasan, Hamas, God willing, will
25 be victorious. Gaza and Abasan are also really important

1 villages in the West Bank and Gaza Strip. So he is claiming
2 them back by using the place names that Palestinians have been
3 calling that area for a very long time.

4 Then he says, "You are the one who needs to leave."

5 All of this is political dialogue basically from two
6 different points of view on this political spectrum.

7 Can we pause, please? So we he is saying very clearly
8 Hamas --

9 Q. Let me just interrupt you one second. Can you identify
10 who you mean when you say "he"?

11 A. The Israeli soldier character is basically saying, "You
12 know Hamas doesn't scare me. You guys are tiny. You guys are
13 very small. The sling will not get me out of this land." The
14 sling is the sling shot. The sling shot is also a really
15 important symbol of the Intifada because kids were out in the
16 streets using the sling shot against Israeli tanks. So he is
17 saying, "What will a sling shot really do to me? What will a
18 stone thrown at me do to me? You guys won't get me out of
19 here with that kind of a thing."

20 Can we pause, please? So what is the answer? I mean,
21 the Israeli soldier has just said, "We are very powerful. You
22 will not get us out of here with a sling shot. We have
23 tanks."

24 So how does he respond? He says, "What do you do with
25 that power?" He says, "This is your work. Against who are

1 you using your tanks and cannons? Against unarmed people and
2 children. The innocent people. This is your work, O coward
3 So he is actually taking his power and turning it against him.
4 He is taking the idea that, "Yes, you are powerful, but what
5 are you doing with that power?" He is inverting that power
6 relationship between them saying, "That power has actually
7 turned you into a coward, because you are using your
8 technology and tanks to target unarmed women and children."

9 So that is the end of the clip. If you notice, the
10 debate between them doesn't end well. The Hamas character
11 shoots the Israeli character, who then falls back behind stage
12 so you don't see him anymore behind the curtains.

13 And then immediately the Hamas character launches into
14 one of those folkloric the al-tabahouf ouf." That is how you
15 can tell he is beginning one of those al-tabah It is meant to
16 be wailing or lamenting.

17 And if you notice, he sings that opening ouf line, and
18 then he goes into this lament about, "When will we be able to
19 return to our land and complete our happiness. We would live
20 in our land and heal our wounds." This is kind of a way of
21 adding a coda to the story. I mean, we have had this debate
22 going on between these two political positions performed on
23 stage by two characters, and then they end with the Hamas
24 character shooting the Israeli character and then launching
25 into the lament about the Palestinian situation.

1 All of that communicates a great deal of linguistic and
2 musical and cultural nuance and meaning that you might not get
3 had you just watched it straight through. There is all of
4 these kinds of things encapsulated in these performances.

5 Q. Was this an example typical of the dramatic performances
6 that you saw during this early period of the Al Sakhra Band?

7 A. Yes.

8 MS. CADEDDU: Your Honor, I am actually going to
9 move to a different area.

10 THE COURT: Let's break for the day.

11 Be back at 9:00 in the morning. Please recall in the
12 instructions we have been over. See you back in the morning.

13 (Whereupon, the jury left the courtroom.)

14 THE COURT: All right. We will be in recess for
15 about 15 minutes, and then go up to 16 in our conference room.
16 We will have the hearing in there. We are in recess.

17 MR. WESTFALL: Your Honor, one thing, No. 1, could I
18 be excused? I have talked to other counsel and they can --

19 THE COURT: Cover for you.

20 MR. WESTFALL: Right. And No. 2, I would like to on
21 behalf of Abdul Odeh because of that comment Mr. Jacks made
22 today in his question about all the Defendants, you know,
23 being paid for by this organization. He knows that is not
24 true, from all the motions before trial began, that we are
25 court appointed. I mean, I thought about it and I can't think

1 of an instruction to cure that, and for that reason, Your
2 Honor, I request a mistrial.

3 THE COURT: Okay.

4 MS. CADEDDU: I would join in both of Mr. Westfall's
5 requests.

6 THE COURT: The motion for mistrial is denied.

7 MS. MORENO: I join also.

8 MS. HOLLANDER: May I join on behalf of Mr. Abu
9 Baker?

10 MR. DRATEL: And on behalf of Mr. El-Mezain.

11 THE COURT: I understand.

12 (End of day.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts

06/06/2009

10 _____ DATE _____
11 SHAWN McROBERTS, RMR, CRR
FEDERAL OFFICIAL COURT REPORTER

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